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POLITICAL SCIENCE QUARTERLY.

MR. MARCY, THE CUBAN QUESTION AND THE OSTEND MANIFESTO.

I.

THE difficulties growing out of the relations of the United States with Cuba, which confronted President Pierce in March, 1853, were inherited difficulties. During half a century Cuba had been on the "order of the day." John Quincy Adams, Clay, Van Buren, Webster and Clayton, during their respective terms at the head of the Department of State, had all officially recorded the interest of the United States in the island, and on several occasions the government's unwillingness to see it pass into the hands of any European power other than Spain had been proclaimed. In 1825, moreover, when the English government suggested a joint declaration by Great Britain, France and the United States, that they would not permit Cuba to be wrested from Spain, Mr. Clay declined to enter into treaty stipulations embodying such a guarantee. As to the acquisition of Cuba by the United States, Mr. Clayton took the position in 1849 that, after the rejection of the proposition made by the late administration on this subject, "should Spain desire to part with the island, a proposition for its cession to us should come from her."

In 1851, our minister at Paris informed the Department of State that a treaty had been entered into between France, Spain and Great Britain to guarantee Cuba to Spain, and that England had ordered her vessels to proceed to that island to protect Cuba against unlawful invasion from the United States. Mr. Webster, then secretary of state, was at the time in Massachusetts. He wrote to the president expressing

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doubts whether England would do a thing so rash as to interfere with American vessels on the high seas under the pretense that they contained Cuban invaders, and declaring that the United States could never submit to such interference. On April 23, 1852, separate notes of a common tenor and the draft of a tripartite convention were transmitted to the secretary of state by the ministers at Washington of France and England. One of the articles of the convention declared:

> The high contracting parties hereto severally and collectively disclaim, both now and ever hereafter, all intention to obtain possession of the island of Cuba, and they respectively bind themselves to discountenance all attempts to that effect on the part of any power or individuals whatever.

Mr. Webster replied a few days thereafter that the president "will take the communication into consideration and give it his best reflection." No further answer having been made, by reason of the illness of the secretary of state, the French and English ministers, on July 8, 1852, again invited the attention of the Department of State to the proposed treaty. Their respective notes were again identical, except that each minister wrote in his own language, and the purport of the notes was a vindication of the right of England and France to intervene. It was pointed out that Spain was heavily in debt to British and French subjects, and that the burden of maintaining in the island an armed force of 25,000 men was a very considerable one for the Spanish treasury. The British and French ministers insisted that the proposed treaty had only two objects, — one, a mutual renunciation of the acquisition of Cuba, and the other, the enforcement of respect for this renunciation. Mr. Everett, having become secretary of state on the death of Mr. Webster, replied to these two notes on December 1, 1852, only three months before the inauguration of President Pierce. He said that the president could not become a party to the proposed convention. He denied that the federal constitution permitted the treaty-making power to impose on the government such a permanent disability as

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would be involved in a pledge for all coming time not to purchase Cuba as it had purchased Louisiana and Florida. The French and English ministers having in their communication put forward, as a reason why such a treaty should be concluded, "the attacks which have lately been made on the island of Cuba by lawless bands of adventurers from the United States with the avowed design of taking possession of that island," Mr. Everett replied that the president was convinced that such a treaty, instead of stopping those proceedings, would give a new and powerful impetus to them — would give a death blow to the conservative policy hitherto pursued in this country toward Cuba; and that no administration at Washington could stand a day under the odium of having stipulated with the great powers of Europe, that, in no future time and by no amicable arrangement with Spain or act of lawful war, should Cuba make itself independent of Spain, and by no overruling interest of self-preservation should the United States ever make the acquisition of Cuba.

The policy of Fillmore, Webster and Everett was blamed in Congress and in the newspapers. It was condemned by powerful organs of Whig opinion in New York, which regretted that Fillmore did not bring his administration to a brilliant close by the acquisition of "the pearl of the Antilles," and so prevent the incoming Democratic administration from accomplishing the beneficent result.

It was in that condition that the administration of Pierce found the Cuban question on March 4, 1853. The matter was presented to Secretary Marcy by notes from the British and French ministers, delivered on April 18, 1853, criticising and protesting against propositions contained in Everett's communication. At a personal interview with the two ministers, on the occasion of the presentation of the notes, Marcy intimated that it would be necessary for him carefully to examine the previous correspondence in order to comprehend its full import, but that, so far as he could then form an opinion, England and France, without denying the right of the United States to decline the proposals, only desired

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to protest against some of his predecessor's contentions, lest thereafter it might be inferred that England and France had acquiesced therein. The two ministers intimated a preference that the discussion should be considered as closed by the communications they had just made. Even if Marcy did not fully concur with Everett's treatment of the proposition made by England and France, it would have been obviously inconvenient for him to reopen the subject from a different point of view, and therefore he made no formal reply. Mr. Everett, however, who had in the meantime taken his seat as a senator from Massachusetts, made by letter an elaborate answer to Earl Russell's subsequent speech in the House of Lords, sharply criticising Everett's note of the previous December.

II.

Historians of the period covered by Pierce's administration, notably von Holst, Schouler and Rhodes, have attempted an injustice to the diplomacy of that administration in dealing with the Cuban question. They have, in the first place, said much of dissensions on the subject in the cabinet. Their statements are erroneous. The drafts of the preliminary instructions and of the subsequent notes sent by Marcy to our ministers at Madrid, London and Paris in regard to Cuba were read, criticised, strengthened in cabinet, and finally revised by the president, and the despatches, when sent forth, had behind them the faithful support of every one of his official advisers.[1] There were learned, vigorous, self-reliant and independent men in that administration, but that each of them was devoted to his chief, the president, may be inferred from the unbroken four years continuity of the cabinet, the first and only instance in our annals. Each realized that to the president alone had the constitution committed the conduct of foreign negotiations.

[1] The writer was in the most intimate official relations with President Pierce throughout his administration, and many of the statements of the text are based upon personal knowledge. The account of the diplomatic correspondence is drawn directly from the official publications of the government.

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When he invited debate in cabinet over action proposed, opinions were expressed, but when he gave his decision the question was closed. One may safely challenge, at the end of nearly forty years, the production of an authenticated remark made by any member of that cabinet in depreciation of the patriotism, the fidelity, — official and personal, — the sagacity and the prudence of its chief, President Pierce.

By publicists and experts the conduct of the foreign affairs of the country during the four years from 1853 to 1857 is now generally commended as conspicuously honorable and brilliant, not only by reason of the propositions of public law it maintained and the intellectual vigor of their vindication, but also by reason of the skill with which it kept our foreign affairs out of the slavery whirlpool in Congress. The disparaging view taken by the historians to whom reference has been made is due to the fact that the imagination of the writers has been entirely submerged by the slavery question in its domestic aspects, and the pursuit of the truth as to Marcy's diplomacy has been misled by the superficial, uninformed and intensely partisan newspaper writers of the day. This is evident from a glance at the authorities cited in the footnotes of those histories. It is as if an historian in the year 1950 should, in ascertaining the truth concerning the conduct of President Harrison and Secretary Blaine, depend on the utterances of the partisan newspaper writers of 1889–92, and of editors disappointed in applications for office. Undoubtedly the slavery question infected and dominated our domestic politics from 1853 to 1857. Undoubtedly that infection made navigation of the ship of state by the executive difficult and perilous; but that difficulty and peril have made more honable, meritorious and conspicuous the diplomacy of Marcy, and the fidelity to him of Pierce's cabinet. Were the matter not so serious, in an historical aspect, there would be a strong element of the ludicrous in the efforts of modern historians to inject "the slave power" into Marcy's great diplomacy, wherein he had no more thought of that power (excepting so far as it might come between the president

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and the Senate) than of the Seminole war, or the war of 1812. Excited partisans, north and south, made an honorable and efficient diplomacy difficult then as they do now; but it is as silly as it is misleading to represent that diplomacy as the facile tool of the "slave power," or of the "Know-Nothing power," or of "the Garrisonian-Abolitionist power." The influence that controlled all was the unsullied traditions of the Department of State, then in the hands of a very great and a very wise man.

In respect to Cuba, the difficulties encountered by Marcy were greatly increased by the character, the temperament and the insubordination of our minister at Madrid; but that fact, which should be put to the credit of Marcy's diplomacy, is used by the historians to his disparagement. The appointment of Soulé turned out to be a serious blunder.[1] He had, like Motley in later times, a plan of his own. Soulé, as every one now sees, wished to be the colleague instead of the diplomatic servant of his chief at Washington. It may be asked why he was not promptly recalled. The question is easier asked than answered, so many were the considerations presented. One may get on the track of one or two of these by recalling what befell President Grant when he recalled Motley, and by reading section twenty-one, pages 159–162, in a memoir of Motley by the fascinating pen of Oliver Wendell Holmes. If Soulé had displayed in his mission the subordination, the deference, the obedience to orders, which European diplomacy has found so useful in generals of the army, or prelates of the Roman Church, made diplomatists, Marcy's labors would have been less, but the great reputation he achieved among those who were and are familiar with the actual situation, would also have been less. Perhaps Soulé was "taking his cue" from Slidell, as Motley did from Sumner.

It is represented by the historians named above that Marcy's diplomacy in regard to Cuba was unsteady and fluctuating in

[1] It was Talleyrand who said: "L'art de mettre des hommes a leur place est le premier de la science du gouvernement" (the saying is not of to-day's invention); "mais celui de trouver la place des mécontents est à coup sûr le plus difficile."

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its main purpose, and that this resulted from his vacillation between the "slave power" and its adversaries in the Northern states. In fact his only object was to preserve the honorable diplomatic traditions of the United States, and keep the negotiations — the question of peace or war — in the hand of the president. Let us try to ascertain the truth by examining the record.

III.

Our minister to Spain having tendered his resignation, it became necessary for President Pierce immediately to select a successor. Soulé was then, and had for six years been, a senator from Louisiana. His term expired in 1855. He represented a state in which there were conflicting opinions in regard to the acquisition of Cuba, the sugar planters rather inclining to oppose such acquisition. His selection as minister was generally approved, if the great number of commendatory letters written to the president by prominent men in each party, residing in different parts of the Union, can be accepted as evidence.

Early in the summer of 1853, Marcy began the preparation of instructions regarding Cuba to Mr. Buchanan, at London, as well as to Mr Soulé at Madrid. Those to the former had special reference to an intervention by England already made, and which, there was reason to believe, was likely to be repeated. In the instructions to Buchanan of July 2, 1853, Marcy said that the course of England and France in sending their ships of war to our coasts during the late disturbances in Cuba was "not respectful to this republic," because there was nothing in our history as a nation to justify the suspicions of us that inspired that action, even although the oppressed in a European colony on this continent had as good a right to invoke the aid of friends as had the oppressors. He pointed out that it was on the suggestion of England that the United States had protested against intervention by the Holy Alliance on this continent to aid Spain in suppressing the South American republics. While declaring his unwillingness to believe that Spain and England intended to render Cuba worthless by Africanization, and an annoyance to the United States when

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Spain could no longer retain possession of it, he yet felt that the evidence of such a purpose came to Washington from too many sources to be utterly disregarded. His position was stated in a sentence which has gone into many text-books of international law: "Cuba must be to the United States no cause of annoyance in itself, nor can it be used by others as an instrument of annoyance." In this instruction Marcy definitely authorized Buchanan to say to England that the president would repress unlawful military enterprises begun in and carried on from the United States against the authority of Spain in Cuba; and yet the historians try to persuade their readers that such suppression was an afterthought.

The instructions to Soulé began by telling him that the recent proposition by England and France to guarantee Spanish rule over Cuba indicated the general European opinion to be that Spanish dominion over the island was insecure. The new minister at Madrid was distinctly warned that nothing would be done by the president to disturb the present relations of Spain to Cuba, "unless the character of that connection shall be so changed as to affect our present or prospective security." He was, however, told that the president would resist the transfer of Cuba to any European power, or the setting up of a protectorate over the island by any European power, Marcy adding that the United States saw in Central America what a foreign protectorate meant. In regard to filibustering, carried on from the United States against Cuba, Marcy said that "while Spain remains, in fact as well as name, the sovereign of Cuba, she can depend upon our maintaining our duty as a neutral nation towards her, however difficult it may be." He directed Soulé to use all his efforts to allay suspicion at Madrid "that our government was disposed to connive at the participation of our citizens in the past disturbances of that island, and would again do so on the recurrence of similar acts." Then, referring to what had been done by President Polk, of whose cabinet Marcy was a member, he said that then it was not proposed to acquire Cuba "unless its inhabitants were very generally disposed to concur

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in the transfer." Marcy was careful to say to Soulé that "it is scarcely expected that you will find Spain, should you attempt to ascertain her views upon the subject, at all inclined to enter into such a negotiation" for the concession of the island to us; and he added his belief "that Spain is under obligation to England and France not to transfer the island to the United States." The promptness with which these two powers sent their vessels to Cuba in 1851–52 indicated that to him. In order that the purposes of the president might not be doubtful to Soulé, he was warned that, "in the present aspect of the case, the president does not deem it proper to authorize you to make any proposition for the purchase of that island." The only thing which Soulé was specifically required to do was to gather accurate information in regard to the subject, and send it to Washington. Especially was he instructed to gather facts in regard to the Africanization of the island. Only on one topic was Soulé permitted to initiate negotiations at Madrid, and that was an arrangement by which the captain-general should be invested with authority to hold political intercourse with the diplomatic or consular agents of the United States in Cuba, in order to accomplish prompt explanations and redress when wrongs had been committed upon American citizens or their property in that island.

It will be seen thus that save in the single matter last mentioned Soulé was explicitly directed to abstain from negotiations and to act simply as a reporter. He disregarded his instructions and made a plan of his own which, as was not seen till some time thereafter, he endeavored to execute in his own way.

There was much that was inconvenient in the circumstances under which Mr. Soulé entered upon his mission. The real features of the alliance between Spain, on the one hand, and England and France, on the other hand, in relation to the island, were unknown, although it was known that in 1851 Lord Palmerston, as minister of foreign affairs, had instructed the British ambassador at Madrid

to say to the Spanish minister that the slaves form a large portion, and by no means an unimportant one, of the people of Cuba, and

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that any steps taken to provide for their emancipation would therefore, as far as the black population is concerned, be quite in unison with the recommendation made by Her Majesty's government that measures should be adopted for contenting the people of Cuba, with a view to secure the connection between the Spanish crown and the island, and it must be evident that, if the negro population of Cuba were rendered free, that fact would create a most powerful element of resistance to any scheme for the annexation of Cuba to the United States, where slavery exists.

What plans the Emperor of the French had in mind were even less well known. He may even then have had in contemplation the scheme which he attempted in 1861, when he sent an expeditionary army to Mexico and set up there a fictitious emperor, in order, as declared in his letter to General Foret, and as has been otherwise proved, to cripple the United States. He intervened at Madrid to prevent the reception of Soulé.

During 1853 nothing of especial importance occurred between Madrid and Washington or between Marcy and Soulé, excepting that the government of Spain indicated its purpose not to consent to the desired arrangement giving larger powers to our consular officers at Havana and to the captain-general, tending to draw the United States into closer and more direct intercourse with the colony. In March, 1854, came the affair of the *Black Warrior*, to the facts and the law of which critical attention must be given by any one who would correctly realize what the plan of Soulé was, and what difficulties Marcy's wisdom successfully encountered at home and abroad, while Congress was absorbed by the domestic question of slavery.

IV.

The *Black Warrior* was a steamer trading between New York and Mobile, but touching at Havana. She had been engaged in that trade eighteen months, and had during that period touched at Havana thirty-six times in order only to land and receive mail bags and passengers. Whenever she had touched at Havana, she had had a cargo on board destined either for Mobile or for New York, which had invariably been

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manifested as "ballast." Each time the vessel had been visited by Spanish customs officers, who knew of the cargo. The first time she touched at Havana in the course of this traffic, which was on September 11, 1852, the customs authorities directed the entry and clearance of the cargo of the steamer to be always thereafter made as "ballast." The Spanish authorities also permitted the entry and clearance of the steamer at Havana to be made in advance of her arrival. At the time of her seizure an entry and clearance had been made in the usual form, but the customs officers informed her captain, on arrival, that his manifest was false, because he had bales of cotton on board. Thereupon the representatives of the vessel asked permission to amend the manifest under a Spanish law which allowed twelve hours for such amendment, and requested that no penalty should be inflicted if a true manifest were presented within that time. Notwithstanding this application, the steamer and her cargo were seized by the Cuban officials and proceeded against for forfeiture. The captain and owners abandoned her and her cargo to the customs officials, and forthwith reported the facts to the State Department at Washington.

The occurrence excited great emotion throughout the country, but the administration did not ask for advice, aid or intervention by Congress. The House of Representatives did, however, and without inspiration from the executive, immediately call upon the president for

> any information he may have received relative to the detention of the steamer *Black Warrior*, the seizure of her cargo or the imprisonment of her officers, [and] also any information in reference to any other violation of our rights by the Spanish authorities.

It was one of the Houses of Congress, thus, that made an effort to draw the affair within its jurisdiction.

The resolution was immediately answered by the president, who transmitted all the facts in his possession in regard to the seizure of the steamer, and said that, in regard to the

> other violations of our rights by the Spanish authorities, of which there have been many in the course of a few years past, all

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attempts to obtain redress in which have only led to protracted and fruitless negotiations, the documents are voluminous and will be sent to the House as soon as prepared.

The president repeated what Marcy had said to Soulé, that in Cuba "the offending party is at our doors with large powers for aggression, but none, it is alleged, for reparation"; and added that he had already represented at Madrid the wanton injury done by the detention and seizure of the *Black Warrior* and had demanded immediate indemnity for the injury. In conclusion he said:

> In case the measures taken for amicable adjustment of our difficulties with Spain should unfortunately fail, I shall not hesitate to use the authority and means which Congress may grant, to insure the observance of our just rights, to obtain redress for injuries received and to vindicate the honor of our flag. In anticipation of that contingency, which I earnestly hope may not arise, I suggest to Congress the propriety of adopting such provisional measures as the exigency may seem to demand.

To a diplomatist the reason for such a declaration is obvious; but the historians see no ground for it save subserviency to "the slave power."

On a motion made in the House to refer this message from the president to the committee on foreign affairs, Mr. Giddings, of Ohio, denounced the document as an attempt to make use of Cuba to inflame the country in the interest of slave labor. The reason assigned for this denunciation was that the president had not contented himself with a reference to the *Black Warrior*, but had alluded to other instances of aggression by Spain upon our commerce, and other insults to our national flag. This speech of Giddings has been accepted in histories and other formal publications as showing that the president had volunteered information not asked for or suggested by Congress. The fact was suppressed by Giddings, and has been suppressed ever since by those who sympathize with him, that the House had distinctly called upon the president not only for all information in regard to the *Black Warrior*, but also for "any information in reference to any

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other violation of our rights by the Spanish authorities." That disturbing speech by Giddings early in 1854, and in the midst of the emotions engendered by the Kansas-Nebraska issue, has been the key-note of a great part of the superficial criticism and condemnation bestowed on Marcy's conduct of the Cuban question. The speech was well adapted to weaken the hand of Marcy, to take the conduct of the critical affair out of the control of the executive, and to alienate the country from the secretary of state.

In foreign affairs the president and Senate, when united, are all-powerful; but the president, when confronted by an alienated and hostile Senate, even of his own party, is well-nigh powerless. The plan of Douglas to overthrow the "finality" of the compromise of 1850, on which the Democrats won in 1852 and Pierce came to power, could not in the Senate be successfully resisted by the president, whatever he might be able to accomplish in the House. Douglas had shaken beyond remedy the repose of the country conferred by the compromise of 1850. Superficial historians condemn Marcy because, when the attention of the Senate, the House and the country was thus again "securely fixed" on slavery, — its extension into the new territories, or exclusion therefrom, — when free labor and slave labor were making ready for the last terrible onset on the academic issue finally shaped by Buchanan and Douglas after Kansas was a free state, he used his influence to preserve good relations between the Democratic majority in the Senate and the president, to keep the tremendous question of foreign peace or foreign war in his hands, to uphold in security the permanent foreign interests of the nation, and to maintain abroad our dignity and our authority at the highest point, even when civil war was almost in sight at home.

The vague reference made by the president to "provisional measures" was made for a specific purpose, namely, to constrain at Madrid an immediate attention to the affair of the *Black Warrior*, and to keep control in his own hands. But, as interpreted in the speech of Giddings, it was successfully used by the opposition newspapers to affright the country with

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predictions of a war against Spain in the sole interest of slave labor. Rumors of dissensions in the cabinet by reason of such a project were industriously put about. Marcy was falsely represented as at issue with the president. The excitement aided the efforts of filibusters in New York, under Cuban control, and in the Southwest under the control of General Quitman. Within a few days, Mr. Slidell, in the interest of the filibusters, moved the Senate to instruct its committee on foreign affairs to inquire whether or not it was expedient to authorize the president to suspend the neutrality laws for twelve months. The motion was intended to embarrass the administration. Slidell assigned as a reason that Spain, urged on by England and with the assent of France, was bent upon the Africanization of Cuba. His motion added to the newspaper excitement. It was said, and the saying has gone into the histories of the day, that the effort to repeal the neutrality laws was made by Slidell on the suggestion of the president and in co-operation with the administration. No statement could have been further from the truth. Slidell had not at any time any other than strained relations with the president. During a large part of the four years of the administration the two were not even on speaking terms. Slidell and Bright were the most conspicuous of a clique of Democratic senators, less that half a dozen in number, who held no personal relations whatever with the president, and with whom Davis, the secretary of war, was not in sympathy. Their names appear in Mr. George Ticknor Curtis's biography of Buchanan as promoters of Buchanan's nomination at Cincinnati.

That the president had no sympathy with the effort of Slidell to encourage filibusters is evident from the tenor of his proclamation against them made during the same month. The power and the duty of the president to prevent the organization and departure of military expeditions for the invasion of Cuba were not, in that proclamation, put solely upon the neutrality law declaring such acts to be high misdemeanors, which law the president was bound by his oath of office to execute; but

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he denounced such undertakings as in violation of the treaties between the United States and Spain, and derogatory to the character of the nation. The proclamation also rested in part upon the duty of the president "to hold and maintain the control of the great question of peace or war" to the end that it be decided by Congress, and not lawlessly complicated by the acts of individuals. It was clearly made apparent in that document that the president would, even if the neutrality laws were repealed, arrest and prosecute all filibusters as they had been arrested and prosecuted in the beginning of the government, before any neutrality law had been placed upon the statute book.

It was often said in the newspapers of the day, and those declarations have gone into publications of a more permanent form, that Caleb Cushing, the attorney-general, sympathized with the filibusters at both ends of the Union; but the truth is that the cabinet was perfectly united in condemning all these movements and in endeavoring to stop them. As for Cushing, ordinarily so calm, he was in this matter in a mental and moral condition quite the opposite. To me, and to his intimate friends, his habitual speech when the filibusters were mentioned was filled with those explosive phrases of which he had such full command. He spoke of filibusters as not only abandoned criminals, entering on infamous expeditions of plunder and murder, but as unmitigated and unimaginable idiots, with plans utterly destitute of practicability, reason or common sense. He protested against an appeal by the president to foreign governments for clemency towards the filibusters when arrested and sentenced for punishment. The idea that the United States should send their public armed vessels to bring back these arrested filibusters to the United States was quite intolerable to him. Why treat a pirate, he asked, with demonstrations of consideration rather than any other robber or assassin? He insisted that instead of endeavoring to obtain pardons for men like Walker, Lopez and others, and bring them back to the United States, the

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country should allow them to remain in foreign lands, and be thankful "to be rid of such vermin."

When Soulé received in Madrid a copy of the president's Neutrality Proclamation, he wrote to Marcy, on June 24, 1854, in a tone of great despondency. Meanwhile Marcy had pushed with characteristic vigor the reclamations against Spain growing out of the seizure of the *Black Warrior*. On March 17, 1854, he wrote to Soulé that

> the outrage is of such a marked character that this government would be justified in demanding immediate satisfaction of the wrong-doers at Havana, and ought in case of refusal to take a redress into its own hands.

Our minister at Madrid was directed to demand of Spain $300,000 as indemnity for injuries inflicted upon the owners of the steamer and her cargo, and that Spain disavow the acts of her officials in Cuba who perpetrated the wrong, or assume the responsibility of upholding their conduct. In order to hasten the Spanish deliberations, a special messenger was sent to Madrid with the demand, who was told to remain a reasonable time in order to bring back to Washington a reply.

In bringing the note to the attention of the Spanish government Soulé insisted, on his own responsibility, that a failure to comply within forty-eight hours with the demands of the president would be considered as equivalent to a declaration that Spain had decided to uphold the conduct of its officers. Nothing had been said in his instructions about hours. Spain properly replied that she must have time to make inquiries at Cuba, and that she could not incriminate without a hearing the high functionaries in that island in whom Spain placed its confidence. The messenger returned to Washington with this reply. Six days later, April 18, 1854, the Spanish government said to Soulé that it could not "agree that there has been an outrage, nor much less premeditation" committed by Spain in the affair of the *Black Warrior*. On May 7, 1854, the Spanish minister of foreign affairs at Madrid wrote again to Soulé to say that he had received from Cuba a complete statement of the facts in the case of the *Black Warrior;* that

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the detention was not a premeditated insult to the American flag, nor any insult at all; that it was a mere application of ordinary fiscal law; that there was no occasion for the payment of the indemnity claimed, since the property had been returned to its owner and the fine had, on their own entreaty, been remitted; and that it was not to be expected that the government at Washington would now demand a pecuniary indemnity as satisfaction for an insult to its flag.[1] The reply concluded by an allusion to the

> unfriendly haste with which the first magistrate of the Republic has censured Spain on representations naturally prompted by passion on the part of those who believed themselves insulted by the proceedings of a high functionary of Spain in Cuba.

Within a few days after the reply by the government at Madrid had been received by Marcy, he wrote his note of June 22, 1854, which, in many important aspects, is one of the ablest and most convincing documents that came from him as secretary of state. Although the owners of the steamer and the cargo had come to terms with the captain-general of Cuba, and had accepted from him what was satisfactory to them, Marcy presented another aspect of the occurrence which demanded the serious attention of Spain. The inconvenience of insisting that a detention and arrest of a merchant vessel by a government, for an alleged violation of its custom laws, is necessarily an insult to the government whose flag the vessel bears, was adroitly put aside in order to make the affair of the *Black Warrior* an occasion for exhibiting the conduct of Cuban officials. In a note dated two days later, and marked "confidential," Marcy said to Soulé that the president "has no objection, but on the contrary desires that Her Catholic Majesty's government should know in what light he views its reply to our claim for reparation," and, he adds, "you are, therefore, at liberty to read the accompanying despatch to the Spanish minister of foreign relations, and

[1] The owners of the vessel and her cargo had, unknown to the State Department, "come to terms" with the Cuban authorities.

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may furnish him with a copy if he desires it." Soulé did not act on this permission. He had other plans.

At about the time that this vigorous presentation by Marcy of the case of the *Black Warrior* arrived at Madrid, a change of ministry took place, and the captain-general of Cuba, together with the officer next in authority who had to do with the arrest of the *Black Warrior*, was removed from office. Concha was appointed to be the new captain-general. Soulé thereupon wrote to Marcy that the most skeptical must then be convinced

> of the utter absence of all disposition on the part of this [Madrid] government to yield anything to our demands; that the position taken by the last cabinet will in the main be maintained by the present cabinet; that our endurance under the inflictions so quietly borne in the case of the *Black Warrior* has encouraged Spain in the belief that she has little to apprehend at our hands for the island of Cuba;

and that he had informed the new minister of foreign affairs that the removal of the captain-general and the appointment of his successor seemed a sort of defiance thrown at the United States. But yet Soulé withheld from the government at Madrid the text of Marcy's convincing argument of June. A few days later (August 30) Soulé wrote to Marcy that his health had become so much impaired that he must retire to a "watering place"; that he left that evening for the frontier, where he would wait fresh instructions to guide his future movements; and that, in the meantime, he had, without orders or permission from Washington, taken leave of absence from the queen and from the minister of foreign relations. That was in the interest of his own plan. In the same note he informed Marcy that the Spanish minister of foreign affairs

> exhibited the most restless anxiety to get a word of writing from me on the vexed subject [*Black Warrior*]. I deemed it judicious not to indulge him in this. I abstained therefore from affording him the chance so earnestly sought to secure in the communication all the

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unanswerable arguments with which you had furnished him (me) on the merits of the case, as that could be done at any time hereafter.

That was in disregard of instructions. The Spanish minister said to Soulé that unless he could have something "in writing," he would have nothing to act upon.

Not hearing anything further about his despatch of June 22, Marcy, finally quite out of patience, wrote on October 27 to Soulé that it was the president's

expectation that the government of Spain should be apprised of the unsatisfactory character of its reply to our demands in that case, [the *Black Warrior*] and of the distinct grounds on which the claim to indemnity and satisfaction rested.

Soulé replied to Marcy, November 10, that he (Soulé) had felt impelled to "keep back" the despatch, but that if Marcy should still think the paper ought to be presented, he would "comply most gladly with his request." Marcy quickly, and for the third time, told him to send the note of June 22 to the Spanish government, because "we having been asked for our views in writing, a refusal to comply would place us in a false position." Finally, about the first of December, Marcy's note, written in the middle of the previous June, was placed in the hands of the Spanish government, and Spain yielded to its unanswerable logic.

Mr. Rhodes, one of the latest of the historians of the United States, says in his comments on this episode in our diplomacy :

It is plain that the president and secretary of state should have decided upon the transfer of Soulé to some other diplomatic post. Soulé was an accomplished and patriotic gentleman, who deserved to be treated with consideration.

It was then, and is now, a defect of our public service that there is in it no diplomatic career as there is in British diplomacy and in our army and navy. There could not be a "transfer of Soulé to some other diplomatic post," unless he resigned or was removed from that at Madrid, and was then nominated to the Senate for another mission where a vacancy existed.

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A demand by the president for his resignation or his removal would have precipitated the whole Cuban issue into the Senate, where the repeal of the Missouri Compromise was raging, and would have given to Slidell, Benjamin, Bright and other enemies of the administration, which enemies then made up the "Southern propaganda," the very opportunity they sought, namely, an uproar over Cuba. The domestic phase of the slavery convulsion was of itself enough for Marcy to confront. The administration was then bending every energy to keep the ship of state on an even keel so far as concerned foreign affairs. The situation was critical at every point — Canada, Central America, Cuba, all round to Smyrna. Davis, Cushing and all the cabinet were loyal to the president and to Marcy. The effort of the executive in those days was to keep its peace with the Senate, in order to keep the peace with foreign powers, even though dissensions raged at home.

As soon as Marcy had become fully aware of the suppression of his *Black Warrior* note, and of the light in which Soulé had represented the course pursued by the Spanish cabinet in the *Black Warrior* affair, the president decided to re-enforce the mission at Madrid by two of our most distinguished citizens, in order to manifest in the most emphatic manner the deep solicitude which he felt in regard to the relations between Washington and Madrid, and at the same time to put needed restraint on Soulé, without aiding mischief-makers in Congress. Soulé was informed of that purpose. On the same day on which he wrote to Marcy deploring the president's Neutrality Proclamation, he complained of the purpose to send commissioners to Madrid, the news of which had somehow leaked out and had found its way into the Madrid newspapers. He regarded an association of colleagues with himself at Madrid as an act of condescension to Spain quite inadmissible — as sacrificing him "to the vindictive exigencies of a haughty *Camarilla* for having offended its pride while acting by the express orders, and under the commission, of my government."

It will be remembered that on March 15, the president, in reply to the resolution of the House, suggested "provisional

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measures" by Congress to meet any exigency that might arise in the recess affecting the relations between Washington and Madrid. The Senate, on the second of August, requested the president for information as to whether anything had arisen since the middle of March which, "in his opinion may dispense with the suggestions" previously made. The president replied that our relations with Spain had not assumed, since March, a more satisfactory condition. Spain had met the formal demand for immediate reparation in the case of the *Black Warrior* by a justification of the local authorities of Cuba. Meanwhile, preparations were on foot by individuals in the United States to make a descent upon the island of Cuba with a view to wrest that colony from Spain. The president informed the Senate that he had issued a proclamation warning all persons not to participate in such enterprises, and said, in conclusion, that "nothing has arisen, since the date of my former message, to dispense with the suggestions therein contained touching the propriety of provisional measures by Congress." A few days thereafter, the foreign affairs committee of the Senate made a report setting forth, among other things, that the hope entertained by the president and by Congress of an amicable adjustment of the pending difficulties with Spain before the termination of the present session had not been realized, but yet the interval between the adjournment of Congress and its reassembling was to be so brief that the committee, under the circumstances, deemed it advisable to leave the conduct of the affair entirely with the executive. That decision was acceptable to the administration, and was by the foreign affairs committee intended so to be.

V.

Meanwhile, though nothing had been accomplished in the *Black Warrior* case, rumors were current which could not be disregarded, of the purpose of Spain and her allies to Africanize Cuba; the efforts of the filibusters in the Southwest had advanced so far that Quitman had been arrested by the government and placed under bonds to obey the neutrality

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law; and relations at Madrid between the American minister and the Spanish government had become more strained. In view of this situation, a few days after the adjournment of Congress the administration decided to give up the project of a special commission to be sent to Madrid, but to set on foot a full and free interchange of views between our ministers at London, Paris and Madrid, "in order to secure a concurrence in reference to the general object." The purpose of Marcy was thereby to obtain more definite information in regard to the purposes of the English and French governments in respect to Cuba. Buchanan, it has since appeared, was even at that early day intriguing with the backers of Soulé in Congress. He had in a large degree the confidence of the country, and his ideas, it was thought, would be valuable. Soulé had left Madrid, and was sojourning elsewhere for the benefit of his health.

The three ministers, Buchanan, Mason and Soulé, met at Ostend on October 9, 1854, removing three days afterward to Aix-la-Chapelle, where their deliberations were continued. Soulé informed Marcy that the "most cordial harmony" marked the progress of their labors. On October 18 the ministers made their report to the Department of State. A great part of it was occupied with an exhibition of the reasons why the United States ought to purchase Cuba, and why Spain ought to consent to the sale. There was nothing disclosed in that relation which Marcy did not already know and appreciate. His chief purpose in directing the ministers to a conference had been to ascertain the purposes of England and France, and whether the two intended to Africanize the island; but the ministers, instead of presenting facts, put aside the inquiry with this pompous sentence:

> We should, however, be recreant to our duty, be unworthy of our gallant forefathers, and commit base treason against our posterity, should we permit Cuba to be Africanized, and become a second St. Domingo, with all its attendant horrors to the white race, and suffer the flames to extend to our own neighboring shores, seriously to endanger or actually to consume the fair fabric of our nation.

Only one important statement was made by the ministers. It was this:

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But if Spain, dead to the voice of her own interests and actuated by stubborn pride and a false sense of honor, should refuse to sell Cuba to the United States, then the question will arise: What ought to be the course of the American government under such circumstances? . . . Our past history forbids that we should acquire the island of Cuba without the consent of Spain, unless justified by the great law of self-preservation. We must, in any event, preserve our own conscious rectitude and our own self-respect. Whilst pursuing this course, we can afford to disregard the censures of the world, to which we have been so often and so unjustly exposed. After we shall offer Spain a price for Cuba far beyond its present value, and this shall have been refused, it will then be time to consider the question: Does Cuba, in the possession of Spain, seriously endanger the internal peace of our whole nation? Should this question be answered in the affirmative, then by every law, human and divine, we shall be justified in wresting it from Spain, if we possess the power; and this upon the very same principle that would justify an individual in tearing down the burning house of his neighbor, if there were no other means of preventing the flames from destroying his own home. Under such circumstances we ought neither to count the cost, nor regard the odds which Spain might enlist against us. We forbear to enter into the question whether the present condition of the island would justify such a measure.

A consideration of the "present condition of the island" was the precise reason for assembling the ministers for deliberation.

The whole document filled the president and all the members of his cabinet with amazement. Nobody could understand the motives of Buchanan in signing it. To allow the document to stand, without a reply expressing the president's opinions, was impracticable. The situation was inconvenient in many respects — personal as well as political. On November 13, 1854, however, the result of the conference having been carefully considered, it was set forth in reply by Marcy that, in the opinion of the president, the purchase of Cuba was the measure to be relied upon as placing the relations of the two countries on the sure basis of enduring friendship. Spain had been informed of the desire by the United States to obtain the cession of the island, and Soulé was again directed, when he

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returned to Madrid, to continue the negotiation for a purchase, if acceptable at Madrid.

Having said that, Marcy proceeded to comment upon the result of the Ostend Conference as set forth by those who took part in it. He told Soulé that the report advised the president to present to Spain "the alternative of cession or seizure of the island." He said that the president concurred in the opinion that it would be time enough to consider the question whether or not Cuba in the possession of Spain seriously endangered our nation, when we should have offered Spain a price for Cuba far beyond its present value, and that should have been refused. "But," added Marcy,

> to conclude that on the rejection of a proposition to cede, seizure should ensue, would be to assume that self-preservation necessitates the acquisition of Cuba by the United States, that Spain has refused and will persist in refusing our reclamations for injuries and wrongs inflicted, and that she will make no arrangements for our future security against the recurrence of similar injuries and wrongs.

He then declared that

> however much we might regret the want of success in our efforts to obtain the cession of it, that failure would not, without material change in the condition of the island, involve imminent peril to the existence of our government.

When the note written by Marcy to Soulé had been received by him at Madrid, he immediately replied that it left him

> no alternative but that of continuing to linger here in languid impotence, or of surrendering a trust which, with the difficulties thrown in the way of its execution, I would strive in vain to discharge either to the satisfaction of the government or to my own credit. You will not be surprised at the course which a sense of dignity has compelled me to adopt.

That course was to tender his resignation. He arrived in New York in March, 1855, and a reception was tendered to him by Goicouria, the chief of the Cuban filibusters in that city.

VI.

In order better to understand the situation at the time, it will be useful to take note here of the divergent forces

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in the United States operating upon the Cuban question. There was on the one hand a strong sentiment in favor of acquiring the island, though for widely varying reasons. Many business men believed that the acquisition would increase our commercial wealth; many military men believed that it would enhance our military strength. Some who wished to destroy slavery everywhere desired Cuba as a means to that end, though the Abolitionists as a rule were hostile to acquisition; many who wished to perpetuate slavery would acquire the island with that purpose in view. There were those who hated Spain as the home of the inquisition and of intolerance, and would humiliate Spain by wresting Cuba from her. There were those, moreover, who would make the island independent and self-governing, like Mexico. And there were those who sought public disturbance and even war, and who promoted filibusterism as likely to further what they sought. The filibusters, hostile either to a purchase of the island by the government or to an acquisition by open war, were endeavoring to promote a Cuban revolt against Spain, and wished the government at Washington not only to abstain from preventing expeditions from our country to aid Cubans, but to encourage Americans to go to the aid of Cubans struggling to secure their independence of Spain. The filibusters insisted that when Cuba had become independent there would be time enough to think of annexing the island to the United States, which insistence implied that it was better for our government to purchase the island from filibusters than from Spain. But on the other hand, there was a large body of opinion, represented at that time by the *Washington Union*, a newspaper at the seat of the federal government, which insisted that if Spain refused to sell Cuba at a fair price, then our government should immediately abate and remove the nuisance of Spanish dominion in the island. Such an opinion was expressed by the *Union* in an elaborate article of July 26, 1854, at a time when Forney, the unfailing friend of Buchanan, was in control of that journal.[1] It should also be borne in mind that,

[1] Forney's Anecdotes of Public Men is much relied on by partisan historians of Marcy's work.

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between the middle of August and the beginning of December, 1854, Congress was not in session, and therefore neither the details nor the substance of what had passed between Washington and Madrid could, in an orderly way, be made public. Not till March of the next year (1855) was the report of the Ostend Conference and the astonishing advice offered by our three ministers spread before the country.

When Congress adjourned in August, 1854, not only was the *Black Warrior* affair still unsettled, but an assault by a Spanish cruiser upon an American vessel, the *Eldorado*, off the coast of Cuba, indicated that Spain, instead of retreating, was advancing in her pretensions of right to overhaul our vessels on the high seas. Affairs in Cuba seemed to be growing worse for our interests rather than better. There were alarming indications of a European conspiracy against us. In consideration of all these circumstances, the president, about the time of Soulé's reception by the New York filibusters, gave directions that as many of our ships of war as could be made available should be ordered to rendezvous near Havana. The assembling, preparation and destination of these vessels could not be kept secret, and created much newspaper commotion. Even the most cautious and conservative of the journalists saw, or said they saw, war with Spain close at hand, and in the interest of "the slave power." The excitement was fed and intensified by the conduct of *The Union*, which persistently encouraged the war feeling, although it had no more knowledge of the purposes of the president than had any other newspaper in the country. Marcy was not complaisant to newspaper reporters, and so they preferred to treat *The Union* as an organ and as "speaking by authority," although they knew that Forney, then devoted to the candidacy of Buchanan in 1856, was not only an editor but a part owner of *The Union*, and that he sympathized with the views of the Ostend Manifesto, which Marcy had condemned. The hubbub went on increasing day by day. One morning an irreconcilable contention was represented as existing in the cabinet; the next morning Marcy and Guthrie were described as in collision with Davis

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and Cushing over war with Spain; and the next it was said that the president had taken affairs into his own hands and had intimated to all the members of the cabinet that they could go about their own business. The newspapers circulated pure fiction. At the bottom of all were the editorials of *The Union.* Finally the excitement became so great — the administration of course refusing to disclose to Spain the instructions given to our war vessels then ready to depart — that *The Union* became alarmed and on April 20, 1855, formally denied that it was "an organ." It said:

> The administration we believe has never inclined to have an organ. So far as its domestic policy is concerned, it speaks through its acts; and in relation to foreign diplomacy it tells, upon the call of the representatives of the people (Congress), what it has done. We take, just as every other free press may take, its avowed principles and its performance. . . . Organism we have neither sought, nor held.

It then went on to declare, in palpable contradiction of previous intimations, that "the president has neither contemplated nor taken any steps in the matter referred to [Cuba] in which he has not had the cordial approval of every member of his cabinet."

After that declaration by *The Union,* which was not suggested or inspired by the administration, or by any member of it, the rude bluster and belligerent antics of the other newspapers quickly ceased.

On June 5, 1855, and when the newspaper commotion had subsided, the president gave to the country the text of the instructions he had ordered to be given to McCauley, appointed to the command of the home squadron, consisting of nine vessels. Attention was therein first called

> to the conduct of the Spanish frigate *Ferrolana* in firing at the United States mail steamer *Eldorado* and subjecting that vessel to delay, visitation and search, about eight miles from Cape San Antonio, — an occurrence which, if approved by the Spanish authorities, is likely to disturb the friendly relations between the two governments, and a course of proceeding which, if persisted in, cannot but provoke collision.

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Then McCauley was told that the United States would not tolerate the visitation or search of their vessels on the high seas, and was instructed

> that if any officer in command of a ship of war be present when an outrage of the character heretofore mentioned is perpetrated on a vessel rightfully bearing our flag, he will promptly interpose, relieve the arrested American ship, prevent the exercise of the assumed right of visitation or search and retaliate interference by force.

The United States, continued the orders, seek no collision with Spain, but all officers of our navy are expected scrupulously to observe the law of nations and uniformly to extend all courtesy and respect to the flags of other powers.

> Your instructions are confined to cases arising on the high seas because, as at present advised, the offensive acts which have been committed are of that character.

It was added that should offensive acts to American citizens or their property occur within the proper territorial jurisdiction of Cuba, and not on the high seas, such facts should be immediately reported to the secretary of the navy, whose further instructions were to be awaited, "unless your prompt interposition should become necessary for the preservation of the lives and property of the citizens of the United States."

The fleet proceeded to its destination.

We have seen that after Congress had adjourned, in August, 1854, Soulé was constrained by Marcy to place his communication of June 22, 1854, in regard to the *Black Warrior*, in the hands of the Spanish ministry. The effect was that, on February 10, 1855, the minister of foreign affairs announced to the Cortes that the government of Her Majesty

> has directed all the questions now pending with the government of the United States to be fully and satisfactorily gone over anew, and has laid down as the principle on which those investigations are to be conducted, not to endeavor to seek arguments against the claims of the United States, but a fair effort to ascertain what is just, in order that when ascertained it may be conceded, and conceded substantially and freely, as becomes the people which this government

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directs. This government, I repeat, has resolved of its own accord to yield whatever is just and to yield without pressure. It is confident of meeting the same sentiment on the part of the government of the United States.

The affair of the *Black Warrior* was adjusted to the perfect satisfaction of the president, and the adjustment was accompanied by an offer even to dismiss from office and punish all the subordinates at Havana who had been concerned therein. In the matter of the *Eldorado* a proper atonement was made. These results naturally exasperated the war party and all the enemies or rivals of Marcy; but when it was reported that McCauley, on his arrival at Havana, had, after a long and friendly interview with Concha, the captain-general, reached a satisfactory understanding with him; that the war vessels of the two countries were saluting and exchanging social courtesies in a most vigorous manner; and that McCauley, with his officers, was assisting the captain-general in military and naval reviews on the island, the "slave-power" war bubble of the newspapers totally collapsed.

The filibusters throughout the country came to grief at the same time. On the 29th of April, at a meeting of the Cuban Junta at New Orleans, Quitman tendered his resignation as commander-in-chief of the expedition which had been so long organized against Cuba, and all the other American officers who held commissions in this Quitman army resigned. *The National Intelligencer*, which, as a powerful Whig journal, had innocently done much to inflame the country against the president and the secretary of state, declared May 11, 1855:

> Our executive government not only showed no favor to the Ostend scheme of acquisition, but still less to filibustering designs on the island, which it formally denounced, and menaced with all the penalties of the law.

Soon after that, the text of all the correspondence and instructions since July, 1853, relating to Cuba, was made public, and the country saw that there had been unanimity in the cabinet, and that Marcy, with a strong and steady hand on the helm, had not permitted the ship of state to fall off by a

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single point from the course laid down by the president in the orders to Soulé of the summer of 1853. The good understanding between Washington and Madrid in regard to Cuba thus effected remained substantially undisturbed during the next succeeding dozen years, and until, in 1868, a revolution in Spain and other causes lighted again the fires of insurrection in the island, and stimulated the organization of filibustering expeditions in the United States to promote that insurrection.

VII.

A great part of the difficulties with which Marcy had to contend, and which put a strain on his great faculties, came from the insubordination of Soulé as a diplomatic agent. He was graceful, eloquent, charming and persuasive, but he failed as a diplomatist because he had a plan and policy of his own, and did not accept the relation to his chief which a diplomatist should occupy. Prince Bismarck summed the matter up when he said: "My ambassadors must wheel about at command like non-commissioned officers, and without knowing why." Had Soulé given his faculties to the study of the wishes, ideas and instructions of his chief, and had he subordinated his own views to these, his mission might have been a brilliant success, instead of a lamentable failure. A diplomatic agent is not the colleague, but the servant of his chief; but having been a senator and once a controlling man in affairs at home, Soulé could not consent to be a subordinate even of a chief so wise and great as Marcy.

This Cuban episode in our foreign affairs was not the first occasion in which the administration had been embarrassed by popular belief in a relation between itself and a newspaper which did not in fact exist. In Pierce's time there was no dignified and effective way provided, short of a proclamation, by which the president could communicate to the country what might be of the highest public importance during the recess of Congress. "Interviewing" had not then been invented, and its uses, as well as its abuses, were unknown. The

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Associated Press was not perfected as now. The administration might select a newspaper as the medium of its "semi-official" and "inspired" declarations, but under the penalty either of having the genuineness of these declarations discredited by the newspapers not so favored, or else of having attributed to its inspiration whatever the conductor of the selected journal might take into his head to say on his own account. In the case of *The Union* we have seen that the administration incurred all the disadvantages of the reputation of keeping "an organ," without gaining the correlative benefits. The desirableness of a channel by which the public can be brought to accept what rulers wish to say, and that without making the rulers officially responsible, at home or abroad, is very evident. Equally evident are the disadvantages of such a relation. The problem of realizing the former and escaping the latter has engaged the attention of the first of living statesmen. Prince Bismarck has told how very early in his diplomatic career he became a working journalist in the interest of Prussia. The memory of his manifestations of a "semi-official" activity in the press has been recently revived in Berlin. His exposition of the subject in a speech of February 9, 1876, described, in his blunt and humorous fashion, the troubles of a minister who can neither do with the newspapers, nor do without them.

It cannot be denied [he said] that every government, particularly that of a great country, desires the support of the press in its foreign as well as its home policy. Nothing, therefore, is more natural than that governments should keep a certain amount of space at their disposal in journals well affected to them, wherein to put forward views which they do not exactly want to publish in their official gazette. Formerly the *Norddeutsche Allgemeine Zeitung* was rendered available to the Prussian government for this purpose by its proprietors, acting upon their convictions and not asking for any remuneration. The government took advantage of their offer and the paper profited largely by its official connection. But what was the consequence? Most people believed that every article appearing in that paper was either written by the prime minister, or read over by him before publication, so that he could be held responsible for

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every word of its text; and it was this which compelled me to forego the pleasure of promulgating my opinions extra-officially in the press. . . . Serious inconveniences, however, accrue from attributing an official character to announcements which really possess none. . . . There is no conceivable piece of stupidity which has not been imputed to me in this manner by the simple word "official"; wherefore I take this opportunity of positively declaring that the Foreign Office does not own an official paper, and does not impart official communications to any paper. I admit the inconvenience of being unable to make known my views to public opinion otherwise than through the *Staatsanzeiger*, or sometimes through a recognized official organ, the *Provinzial Korrespondenz;* but thus, at least, I am sure that no cuckoo's eggs will be laid in my nest, and that I can only be held answerable for what I myself (or one of my colleagues) have said.

That is a vigorous statement of difficulties similar to those under which Marcy labored. It is bad enough for a living administration to be by newspapers persistently misrepresented in respect to its conduct of foreign affairs, but it is still worse when, as in the case of Marcy, historians nearly forty years after his death confess that, without any adequate attempt at verification, the irresponsible and malevolent statements of such newspapers are used to defame the work of one of the greatest of the illustrious men who have held the portfolio of the Department of State.

SIDNEY WEBSTER.

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THE DIPLOMATIC CORRESPONDENCE OF THE AMERICAN REVOLUTION.

BY a joint resolution approved August 13, 1888, Congress authorized the printing of a new edition of the diplomatic correspondence of the American Revolution, with historical and legal notes by Francis Wharton. This action on the part of Congress was induced by the disclosure of defects in the text of the correspondence as published by Jared Sparks, as well as by the discovery of important documents which were unknown to Mr. Sparks. The editor of the new edition died soon after it was ready for the press, and before much progress had been made in the printing; and authority was conferred on his literary executor to continue the work of publication. This work is now almost finished. All that it lacks of completion is the printing of a subject index.

It will be time to discuss the merits of the new edition when it is in the hands of the public. The object of the present article is merely to point out the defects in the text of Sparks, as they have been revealed by an examination of the whole correspondence. In this way it is hoped that something may be contributed to the elucidation of a question that has been much controverted even to the present day.

In attempting to pronounce a judgment on the text of a correspondence published more than two generations ago, something must be allowed for the change that has taken place in our views of editorial duty. The standard of fidelity prescribed by Cromwell for the young Lely, who was ordered to paint the Protector as he was, with all his scars and wrinkles, has not always been accepted by those who have sought to portray the character and conduct of public men by their letters. On the contrary it has been thought to be proper, if not a matter of duty, to correct and alter correspondence so as to make it conform to the canons of taste prevalent at the

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time and place of publication, and to omit any passages that may contain opinions which time has failed to justify, or which it is probable that the author might, if he were alive, desire to modify or suppress. Modern criticism condemns this view of editorial duty; and it is not strange that in the revulsion recent editors have sometimes gone too far. Among men who write at all, there are few, if any, who do not at times, when under the sway of impulse or misconception, utter sentiments in the secrecy of correspondence which it would be unjust to publish. Fidelity to truth does not require us to pander to a low and prurient curiosity, by publishing private writings which shock our sense of propriety or of justice.

But in regard to correspondence of an official character, the limits within which alterations and omissions are permissible must be very narrow. The great mass of the diplomatic correspondence of the American Revolution is composed of official letters, written by one official person to another, on subjects of public concern. In such case the writer must be held responsible for what he utters, both as to substance and as to form. To alter the form is to deprive us of one means of forming an estimate of the writer; to destroy the substance is to deceive us as to historical facts. That an editor has done either the one thing or the other in the publication of official historical documents, must greatly detract from the value of his work and impair confidence in it. It is true that in the contemporary publication of diplomatic correspondence it is usual to suppress such passages as might be detrimental to the public interest. But the rule in such cases is to print the imperfect text as an "extract," or by the use of appropriate signs to indicate that there are omissions.

The alterations in the text of the diplomatic correspondence as published by Sparks may be classified as follows:

1. Changes in the style, for rhetorical or grammatical effect.

2. The omission of whatever seemed to be undignified or indelicate.

3. The suppression of passages exhibiting the antagonisms of our Revolutionary leaders and the existence among them

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of personal motives and antipathies, or suggesting doubts as to their patriotic zeal.

4. The elimination of whatever might tend to offend the susceptibilities of the British people.

I.

The changes in style are numerous and run all through the correspondence. Their character may be shown by a few illustrations.

In the letters of Silas Deane, from France, we find "Employ must be found," changed to "Employment must be found;" "to appear in a proper character and defend," is printed "to appear in a proper character, and put in a defence;" "long-accustomed form and etiquette," is made to read "long-established form and etiquette;" "the uncertainty of my situation will not permit my engaging for anything certain to one who might deserve confidence," reads: "the uncertainty of my situation will not permit my making engagements to one who might deserve confidence." Where Deane expresses fear lest he may have "omitted something," Sparks says: "omitted some things deserving attention." Deane says: "The United Colonies want about three millions value of manufactures annually (it has heretofore been rising of that) from Europe." In Sparks the parenthetical clause is: "it has heretofore been a little more." Where Deane speaks of giving French manufactures "the advantage of the first lead in American commerce," Sparks says: "the advantage of anticipating others in American commerce." In a letter of Deane's to the Committee of Secret Correspondence, of December 1, 1776, some of the changes made in the style are as follows: In the original it is declared that the bills issued by Congress must be "paid off by taxes and new emissions made;" Sparks says: "paid off by taxes and new emissions." "This is obvious, that," becomes "It is obvious that." "I have in a former letter wrote," is changed to: "I have in a former letter written." This last alteration is frequently made, since Deane habitually said "have wrote." A subordinate clause, — "with

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many other obvious reasons," is converted into the beginning of a sentence: "There are other obvious reasons." The expression "prevented the loan and fell the stock," is changed to "prevented the loan and lowered the stock." Deane also says: "The credit of Great Britain, though it has not fell," while Sparks prints: "has not fallen."

In the letters of John Adams constant modifications of style have been made. Thus in a note of Adams to Vergennes, of July 1, 1780, we may point out, among others, the following:

ADAMS.	SPARKS.
The advantages which Spain has gained in West Florida, and particularly of late at Mobile, and the probability that they will succeed in acquiring both the Floridas . . . They (the English) will see every possession they have beyond their island lopped off . . .	The advantages which Spain has gained in West Florida, and particularly of late at Mobile, and the probability that she will succeed in gaining both the Floridas . . . They (the English) will see every possession they have beyond the island lopped off . . .
I presume not to know. . . .	I pretend not to know. . . .
Want of knowledge or attention.	Want of knowledge and attention.
While they have the superiority of the sea.	While they have the superiority at sea.
Without a superiority of naval force, New York will never be taken.	Without a superiority of naval force, clear and indisputable, New York will never be taken.
If the last year the enemy had marched . . .	If in the last year the British army had marched . . .
This it was induced them.	This it was that induced them.
The English are in possession of Canada . . . , in which there are a great number of posts.	The English are in possession of Canada . . . . in which there is a great number of ports.
It is force and fear and policy.	It is force, fear and policy.

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It would be very easy to reduce them in this way to such misery.	It would be very easy in this way to reduce them to such misery.

In a letter of Adams to the president of Congress, dated at Amsterdam, September 24, 1780, we find the following changes:

ADAMS.	SPARKS.
Since the receipt of the despatches by the Hon. Mr. Searle, I have been uninterruptedly employed in attempting to carry into execution the designs of Congress.	Since the receipt of the despatches from Congress, brought by Mr. Searle, I have been uninterruptedly employed in attempting to carry into execution their designs.
The first inquiry which arose was whether. . . .	The first inquiry which arose in my own mind was whether. . . .
The same reasons determined me to communicate nothing to the regency of Amsterdam or any other branch of government, and to proceed to seek a loan upon the foundation of private credit.	I then inquired whether it would be proper to communicate anything to the regency of of Amsterdam, or any other branch of government whatsoever; and I was advised against it, and to proceed to effect a loan upon the simple foundation of private credit.
This business must be conducted with so much secresy and caution, and I meet with so many difficulties for want of language, the gentlemen I have to do with not understanding English, and not being very familiar with French, that it goes slower than I could wish.	This business must all be settled with so much secresy and caution, and I am under so many difficulties, not understanding the Dutch language, and the gentlemen I have to do with not being much more expert in French than I am myself, and not understanding English at all, that the business goes on slower than I could wish.

Many alterations of style were made in the letters of Carmichael, but it is unnecessary here to describe them. This

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branch of our investigations may be concluded by setting forth the changes made in the letter in which Livingston resigned the office of Secretary of Foreign Affairs:

LIVINGSTON.	SPARKS.
Having lately learned. . . .	Having lately been informed. . .
Distinguished marks of confidence which I have experienced repeatedly, as well from Congress as from its respective members. . . .	Distinguished marks of confidence which they (Congress) have repeatedly shown me in the execution of my trust. . . .
The Reverend Mr. Tetard . . . finds himself reduced, at an advanced age, to want the necessaries of life, the enemy having destroyed his house, laid waste his farm, carried off his slaves, and plundered him of his property. For these facts I take the liberty to refer Congress to his memorial, presented to them in 1778.	The Reverend Mr. Tetard . . . finds himself reduced, at an advanced age, to absolute ruin by the enemy and our own army, both having contributed to lay waste his farm, destroy his buildings, and pillage his property. For these facts I take the liberty to refer Congress to his memorial.
As it is probable, sir, that Congress, in making a new appointment, would wish to adapt the salary to the necessary expense of the department, of which they have heretofore had no means to be fully informed, I owe it, as well to them as to my successor, to assure them that with the utmost economy which my situation would admit of, I have been compelled to expend something more than three thousand dollars beyond the allowance of Congress, exclusive of carriages, horses, and household furniture, all of which I brought with me.	As Congress, in making a new appointment, will probably wish to adapt the salary to the necessary expenses of the department, of which they have heretofore had no opportunity to be fully informed, it is a duty I owe to them as well as to my successor, to assure them that my expenses, exclusive of purchase and wear, carriages, horses, and household furniture, have exceeded my allowance from Congress upwards of three thousand dollars.

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II.

The character of our Revolutionary patriots renders it superfluous to say that the omissions made in their letters on the score of dignity or of delicacy are far less numerous than the changes of style. Nor are they of great importance. Nevertheless, it does not seriously jar us now and then to find a lapse into pleasantry, a slight abatement of reserve or a little plainness of speech. We are no longer blinded by the "dignity of history." It does not diminish our respect for John Adams to learn that he once suggested that the Dutch might become "undutchified." In Sparks the passage is omitted. Referring to the imprisonment of Henry Laurens in the Tower of London, Adams said: "He is ill of a lax, much emaciated, and very invective against the authors of his ill-usage." In Sparks this sentence runs: "He is sick with a cholera, much emaciated, and very much incensed" *etc.*

One of the notable characteristics of John Adams was the frankness with which he committed his thoughts to writing — a characteristic that has been perpetuated in his descendants. When he returned to Paris to participate in the peace negotiations, fresh from his diplomatic triumphs in the Netherlands, he not unnaturally felt a sense of elation, and he took no pains to conceal it. In his journal of the peace negotiations we find, under the date of November 10, 1782, the following paragraph:

> The compliments that have been made me since my arrival in France, upon my success in Holland, would be considered as a curiosity if committed to writing. "Je vous félicite sur votre succès," is common to all. One adds, "Monsieur, ma foi, vous avez réussi bien merveilleusement. Vous avez fait reconnoître votre indépendance; vous avez fait un traité, et vous avez procuré de l'argent. Voilà un succès parfait." Another says, "Vous avez fait des merveilles en Hollande: vous avez culbuté le Stathouder et le parti Anglois; vous avez donné bien du mouvement, vous avez remué tout le monde." Another says, "Monsieur, vous êtes le Washington de la négociation." This is the finishing stroke. It is impossible to exceed this.

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This paragraph was omitted by Sparks, but it was subsequently published in Adams' complete works.[1]

Under the expurgatory pen passages disappear from the letters of Dumas, the faithful, learned and neglected Switzer, who represented the United States at The Hague, as well as from the letters of Carmichael, Deane, Franklin and the Lees.

Dumas with high enthusiasm exclaims: "I had addressed myself to the court of France with an exalted mind and fired with philanthropy"; he is made to whisper: "with a deep interest in your concerns."

Carmichael, exhilarated by his return to his native land, off Reedy Island addressed the president of Congress as follows:

> How strangely am I rusticated on the wing to the regions of politesse, and yet forget to mention the ladies. This you will naturally do for me, or palliate this sin of omission with many others of, sir, your obedient servant.

The sin was perpetuated by the suppression of this apology.

Arthur Lee, writing from Paris, says: "Spain is more reserved, *her minister here an old woman.*" In another place he declares: "By such arts they (the British ministry) endeavor to *cover their nakedness and* sustain their desperate cause." In each of these sentences the words here italicized are omitted.

Deane, who speaks of a "ticklish situation," is made to say "critical situation"; and when he recommends a suggestion to Congress "for digesting," he is represented as proposing it "for consideration." His offences, however, are not all so cursory. In a letter to Jay, dated at Paris, December 3, 1776, Deane in an omitted passage says:

> I must mention some trifles. The queen is fond of parade, and I believe wishes a war, and is our friend. She loves riding on horseback. Could you send me a narrowhegansett horse or two; the present might be money exceedingly well laid out. Rittenhouse's orrery or Arnold's collection of insects, a phaeton of American make and a pair of bay horses, a few barrels of apples, of walnuts, of butternuts, etc., would be great curiosities here, where everything

[1] John Adams' Works, III, 306.

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American is gazed at, and where the American contest engages the attention of all ages, ranks, and sexes.

Of omissions on the score of dignity, or of delicacy, only one more example will be produced. Among the circumstances that lent to Lafayette's chivalrous espousal of the American cause the tinge of romance, none more directly appeals to our sense of humanity than the sacrifice of his new domestic felicity. In a joint letter of Franklin and Deane to the Committee of Foreign Affairs, of May 25, 1777, this subject is introduced in the following terms:

> He has left a beautiful young wife big with child, and for her sake particularly we hope that his bravery and ardent desire to distinguish himself will be a little restrained by the General's prudence, so as not to permit his being hazarded much, but on some important occasion.

In printing this sentence, Sparks omits the reference to the young wife's condition.

III.

The changes and omissions heretofore disclosed relate chiefly to matters of form. Those that follow relate to matters of substance.

Without the knowledge that distrust and contention at times distracted our public councils, it is impossible either to understand important incidents in our Revolutionary history or to appreciate the constant zeal, the lofty purpose and the complete devotion of those who guided the struggle for independence to a successful conclusion. It is well known that Washington encountered opposition both in the army and in Congress. This opposition proceeded sometimes from distrust of his capacity, sometimes from jealousy of his authority, sometimes from a desire to supplant him. To this fact is attributable, though perhaps not entirely, a movement in 1776 and 1777 to secure the appointment of a foreign officer to the command of the American army. This movement appears to have originated abroad, and it failed to receive support in the

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United States; but it was not peremptorily discouraged by some of our representatives in Europe. The limitations of the present article do not admit of a full exposition of this incident, and I will merely quote from a letter of Silas Deane, written in France, to the Committee of Secret Correspondence, of December 6, 1776, the following paragraph which Sparks suppressed:

> I submit one thought to you, whether if you could engage a great general of the highest character in Europe, such for instance as Prince Ferdinand, Marshal Broglie or others of equal rank, to take the lead of your armies, whether such a step would not be politic, as it would give a character and a credit to your military, and strike perhaps a greater panic in our enemies. I only suggest the thought, and leave you to confer with Baron de Kalb on the subject at large.

Among the adversities of the Revolutionary contest, none threatened greater injury to the American cause than the quarrels of our diplomatic representatives. Beginning with the altercations between that stormy petrel of controversy, Arthur Lee, and the ill-balanced and unfortunate Silas Deane, they finally assumed an aspect more portentous than the presence of the British armies in the field. In a passage omitted by Sparks, Franklin says of Arthur Lee: "That restless genius, wherever he is, must either find or make a quarrel;" and in Deane, rash, impulsive and given to suspicion, he found a ready antagonist. But the quarrel did not end with them. Franklin was dragged to the brink of the vortex; and, although he did not reply to Lee's assaults, a serious attempt was made to induce Congress to recall him, at a time when his overshadowing reputation and matchless skill were of the utmost value to the American cause.

To a proper comprehension of the origin and quality of these diplomatic quarrels, a knowledge of the character of Arthur Lee is essential, and such knowledge we naturally expect in a measure to gain from his letters. We find, however, that many passages of great importance, as showing the violence of the suspicions and the recklessness of the charges of this "*Junius Americanus*," have been suppressed in the text

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of Sparks. Thus, in an omitted paragraph in one of the so-called "Colden" letters, of February 13, 1776, he speaks of the constitution of a committee of congress, — a committee whose members were men of the highest character, — as follows:

Yet I cannot tell to what fatality it is owing, that of the five, two are men of whom I have more diffidence than any others, I have almost said, thro' the whole continent; that I may be explicit, the second and last are men whom I cannot trust. If I am to commit myself into an unreserved correspondence, they must be left out, and the L's or the A's put into their places. This letter, therefore, is to you, sir, and not to the committee. I cannot imagine that what I desire can be deemed impertinent, when it is considered that the very purpose of its appointment is, so far as it relates to me, disappointed by the members. The selection of them instead of inspiring confidence, gives me an apprehension which I did not feel when they were in the general mass.

In a letter of September 10, 1779, to the president of Congress, Lee refers to William Carmichael, who for many years served his country abroad with unblemished reputation, in the following terms:

In the meantime I beg leave to inform Congress that I will transmit to them by the first opportunity such evidence of Mr. Carmichael's character and conduct as I trust will fully satisfy them how unfit and unworthy that gentleman was to be credited in any evidence or information he may have given concerning me. Neither do I despair of being able to prove in time to Congress and to my country the secret motives of interest or malice which have actuated the conduct of those who have stood foremost in endeavoring to cover the crimes of others and visit them unjustly upon me.

On September 19, 1779, the charges against Carmichael are renewed in a passage which, like the preceding one, is omitted. Against Franklin charges of fondness for pleasure, neglect of business and corrupt use of public funds are made and pressed with peculiar vindictiveness. In a single letter of December 7, 1780, matter of this character sufficient to fill more than two printed pages is suppressed.

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Perhaps the most unnecessary and surely the most ludicrous incident of the attack on Franklin and Deane, was the participation of Ralph Izard. Izard was one of that unfortunate band of Revolutionary patriots, described in our encyclopaedias as "diplomatists," whose missions to various European courts ended in Paris. The post to which he was assigned was at the court of the Duke of Tuscany, but owing to the refusal of the duke to receive a representative from the revolutionary Congress, he never reached that court, and until he returned to the United States he resided in the French metropolis. A man of proud spirit and hasty temper, the disappointment and inactivity under which he was chafing only increased his unfitness for the office of peacemaker. For, as he informs us, it was in this capacity that he first intervened in the quarrels of the commissioners. In a letter to the president of Congress, of February 16, 1778, he fully describes, in three long passages omitted by Sparks, his relation to the subject, and at the same time discloses the extent to which his partisanship had then developed. These passages are as follows :

I look upon you as my friend, and therefore lay my sentiments freely before you, and confess to you that nothing has ever surprised me so much in my life as the proceedings of the two eldest commissioners in this business. Had they been in politics as infallible as the Pope intends to be in matters of religion, they could not have acted in a greater degree of confidence ; and upon every occasion they seem to consider themselves as the only persons interested in the fate of America. This conduct in one of the gentlemen astonishes me, and I can account for it in no other way than supposing him under the influence of the other, who does not appear to me the best qualified of any man I ever saw, for the character which he has the honor of filling. Upon my arrival here I found a great disunion among the commissioners, the two eldest constantly taking part against the youngest. This led me to conclude that the latter must be to blame, especially as I never, during the many years I have had the pleasure of his acquaintance, heard him accounted the mildest or gentlest man in the world. I immediately endeavored to accommodate these differences, but found it impossible. Both

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parties were too firmly convinced of the justice of their own complaints to take such steps as would put it in the power of a mediator to bring about an accommodation; and as I found that I was laboring in vain, I gave up the point. I cannot say that Mr. Lee has been entirely blameless; but I must do him the justice to say that the conduct of the other gentlemen towards him has been unjustifiable, and such as could not fail of provoking any man not dead to all sense of injury. These proceedings, together with the misconduct of Mr. Morris, the commercial agent, have been, I am convinced, extremely injurious to our affairs, and have tended to lower the Congress in the opinion of the French court. Mr. Morris' irregularities, however, have carried him to the grave. . . .

I shall not be sorry to be separated from the two eldest commissioners here, whose proceedings I do not approve of. Their situation seems to have intoxicated them; and there is a degree of hauteur and presumption about one of them (Mr. D.) that cannot fail of being offensive to any gentlemen who has business to transact with him. I am well aware how fatal it is to have disagreements among those who are engaged in the service of the public, and I have taken great pains to avoid them. . . .

In my former letters to you I desired you to direct yours to me to the care of the American commissioner at the court of France. The contents of this letter will show you the impropriety of such a direction. There is another very strong reason why I wish that this may not be done; which is, that Mr. Lee assures me he has discovered that his dispatches to Congress have been opened by one of his colleagues. I think you will join me in rejoicing that these gentlemen are soon to act in different departments. You will be so good as to address your letters to me to the care of Monsieur le Comte de Clouard, Rue Colbert, à Paris, and they will be forwarded to me into Italy.

In omitted passages in letters of April 11, June 17 and June 28, 1778, and September 29, 1779, Izard continues his denunciations of Franklin with increasing virulence, and perhaps unconsciously shows how he took "great pains" to avoid "disagreements" with other public servants. Though he was not charged with any duty at the French court, the principal origin of his supposed grievance against Franklin and Deane was their disinclination to accept his advice, which Arthur Lee had solicited for purposes of opposition, as to the exclusion of cer-

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tain provisions from the treaty of commerce with France. Stung by this fancied slight, Izard addressed Franklin in a tone of angry complaint, and finally worked himself into a frenzy because Franklin refused either to apologize or to quarrel. After vainly trying to compel the acceptance of one or the other alternative, he resorted to vituperation, which he poured forth in letters to Franklin himself as well as to Congress. Deception, ingratitude and dishonesty of various kinds are among the accusations copiously made, which are summed up in a declaration to the president of Congress that he does not believe that Franklin is under the restraint of the principles of virtue and honor. Izard's high character and unquestionable devotion to the American cause tended to give weight to his utterances, and from an historical point of view the most important part of his letters from Paris are the omitted passages relating to the attempt to bring about Franklin's recall.

IV.

In the text of Sparks expressions derogatory to Great Britain are sedulously excluded. Thus, where Arthur Lee refers to George III as a "merciless and unprincipled tyrant," and speaks of his "base mind," "the malignity of his passions" and his "rancorous and envenomed" disposition, the offensive expressions are omitted. An allusion to the "cruelty and vindictive spirit of the enemy" is expunged. In a letter of December 23, 1776, Arthur Lee declares that if the efforts of the United States to establish their independence should in the end "be found fatal to England, it is the perfidy of her ministers, *which never offers anything which could be trusted*, which compels it." Though this letter was addressed to an Englishman, Lord Shelburne, the clause here italicized is dropped. Another passage, for the omission of which there seems to have been little reason, is that in which Arthur Lee, in reporting the theft of his papers by Elliott, the British envoy at Berlin, says:

> He will do better next time, and his court will no doubt encourage him. Public ministers have been regarded as spies. Mr. Elliott will give them the additional title of robbers.

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In a letter to John Adams, of February 19, 1780, Lafayette speaks of "treachery and falsehood" being employed by the British; Sparks substitutes the single word "misrepresentations."

But of the eliminations now under consideration, by far the most important are those that relate to barbarities practised by the British army. All through the correspondence, in the letters of Adams, Carmichael, Deane, Franklin, Arthur Lee, Livingston and Morris, references to this subject are omitted in the text of Sparks. Yet, in order to appreciate their importance, it is only necessary to advert to the fact that in the negotiations of the treaty of peace, the cruelties and wanton destruction of property committed by the British army formed the basis of a counter-claim which was successfully urged against the admission of the British demand that the loyalists should be compensated for the confiscation of their estates.

In conclusion, it is proper to say that the changes made by Sparks in the text of the Revolutionary correspondence are more numerous and more important than I had been led to suppose, when I began the work of comparison for myself. Not a small proportion of the errors commonly pointed out in his text may be attributed to the incompetency of copyists and proof-readers, a misfortune which it is hardly possible to escape. Few of the defects which I have exhibited seem to be of that character. They doubtless are referable to a misconception of editorial right and duty, and to a desire to avoid, in what was designed to be a permanent public record, the revelation of whatsoever might create or perpetuate ill-feeling, or exhibit our Revolutionary characters in any other than an always serious and favorable light. That they were due to a spirit of subserviency, no one familiar with the writings of Jared Sparks will maintain. Nor should they be permitted to blind us to the lasting obligations under which we stand for his timely, unceasing and fruitful exertions in the cause of American history.

JOHN BASSETT MOORE.

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INTEREST IN MANDAMUS CASES.

ONE of the conditions the existence of which is most necessary in order that a court may issue the writ of mandamus is that the duty of the authority to which the writ is directed, to do what the writ commands, shall be clear and specific. That is, mandamus is not a creative remedy. It never has the effect of calling into existence any new authority or duty, and it will never command the performance of an act which would be unauthorized in the absence of the writ.[1] The duty of the public authority is, however, often correlative with a right on the part of the individual applying for the writ, as private relator, to have the thing done which the mandamus seeks to enforce; indeed, in many cases the actual existence of the duty of the public authority or official to whom the writ is directed, to do the thing commanded, depends altogether upon the existence of this right in the individual. Thus, take the cases of People *vs.* Newton (112 N. Y. 396) and *Ex parte* Railroad Company (121 N. Y. 536). In the first case the Third Avenue Railroad Company in the city of New York applied to the courts for a mandamus to force the commissioner of public works of New York City to issue a permit for opening the streets in order that the company might substitute cable for horse power in the traction of its cars. In this case the court decided that the right of the railroad company to open the streets was not clear, and that there was, therefore, no duty upon the part of the commissioner to issue the permit; the mandamus, accordingly, was refused. After the decision the legislature of the state of New York passed an act permitting horse-car companies to substitute cable for horse power under certain conditions. The conditions were complied with by the Third

[1] People *vs.* Campbell, 72 N. Y. 496; People *vs.* Board of Police, 107 N. Y. 235; People *vs.* Village of Crotty, 93 Ill. 180; High on Extraordinary Legal Remedies, 2d ed., sec. 7.

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Avenue Railroad Company, but the commissioner of public works still refused to issue to the company the permit to open the streets. Application having been again made for a mandamus to compel the issuance of the necessary permit, the court held that, as the company now had the right to have the thing done which it sought to have enforced, it was the duty of the commissioner of public works to issue the permit; and a mandamus was granted compelling him so to do.

As a result of this dependence in many cases of the duty of the officer upon the right of some individual, the rule is sometimes stated in another form. It is said that the right of the individual applying for the mandamus, to have that done which the court is asked to command, must be clear and specific before the mandamus will issue. Indeed, this is perhaps the more common way of stating the rule in the decisions of the courts.[1] The reason for it is that in many cases, particularly where the desired mandamus is to be directed to private corporations, the public has no interest in the doing of the act demanded. Practically the real ground for the issue of the writ in these cases is the interest of the individual, and it is only natural for the courts to emphasize the right of the individual and to ignore the duty of the public authority resulting therefrom. This tendency, however, is unfortunate, since the resulting statement of the rule is neither exact nor comprehensive, and has led to the adoption by some of our courts of what seems to be a wrong rule of law — a rule which also has had politically a bad effect. The resulting statement of the rule is defective because, while in many cases the duty of the public authority is correlative with a right on the part of the individual, in many other cases there is no such correlation. The duty often attaches to a public official or private corporation merely by virtue of some provision of positive law, and is absolutely independent of all individual rights. When this is the case the public alone is interested, and the only reason for issuing the writ of mandamus is to be found in the duty of the public official or private corporation.

[1] High, *op. cit.* sec. 9.

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In those cases in which individuals alone are interested, it early became the rule, through the emphasis which was laid on individual rights, to oblige the individual applying for the writ as a private relator to show some interest peculiar to himself, and not common to all citizens, before the writ would issue. But the practice of ignoring the duty of the officer or authority and emphasizing the right of the individual in cases in which the public was not concerned, was extended to other cases. The courts of some of the American commonwealths began to hold that the individual applying for the writ of mandamus as private relator must show some interest peculiar to himself, and not common to all citizens, not alone in cases where the matter interested only private individuals — where the duty of the authority to which the writ was directed, to do the thing sought to be commanded, depended for its existence on the existence of some private right — but also in cases where the public only was concerned, where the duty of the authority was absolutely independent of all private rights. The result was that in cases where the public only was concerned the ordinary citizen (*i. e.* the citizen having no interest peculiar to himself) might not apply to the courts for the writ of mandamus for the simple enforcement of the law and of the performance of their duties by officers, but that the application in these cases could be made only by the law officers of the government, as representing the public.

The case in the United States which seems to have been the cause of the adoption of this rule is that of Wellington *et al.*, petitioners.[1] In the course of his opinion Chief Justice Shaw extended to cases in which the public alone was interested the rule which was applicable to cases in which a private individual alone was interested, *viz.* that the private relator must, in order that the writ may issue, prove to the court that he has some interest peculiar to himself and not common to all citizens. Justice Shaw said:

Undoubtedly the general rule is that a private individual can apply for the writ, but only in the cases where he has some private

[1] 16 Pickering, Mass. 87.

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or particular interest to be subserved or protected by the aid of this process, independent of that which he holds in common with the public at large: and it is for public officers exclusively to apply where public rights are to be subserved. [Page 105.]

The only citation made by the justice in support of the rule which he thus laid down was the case of Rex *vs.* Merchant Taylors' Co. (2 B. & Ad. 115), which he cited as from Barnwell and Alderson's reports, when it is in fact to be found in Barnwell and Adolphus. Examination of this case will show that it did not lay down the rule stated by Judge Shaw. It was decided with reference to a private corporation and not a public officer; and a purely private right was concerned, in which the public had no interest. Unfortunately for the law, this dictum of Judge Shaw's, for it was really only a dictum, was made the basis of a decision in the case of Sanger *vs.* County Commissioners (25 Me. 291, 296), which held that a private individual could not by mandamus force the county commissioners to lay out a road, even where the law clearly made it their duty to do so. In the opinion in this case Judge Shaw's dictum is quoted word for word, and the appearance of the same typographical error in the citation of the case of Rex *vs.* Merchant Taylors' Co. would seem to show that the Maine judges did not take the trouble, or else were unable, to verify Judge Shaw's reference. The Massachusetts dictum and the Maine decision were made the ground of decisions in both Pennsylvania and Michigan. The supreme court of Pennsylvania decided, in the case of Heffner *vs.* Commonwealth,[1] that a private individual could not by mandamus force a common council of a borough to open a certain alley within the corporate limits, although an act of the legislature enjoined upon the council to open the said alley. The reason given for the decision was that the private citizen applying for the writ had no interest peculiar to himself and not common to all citizens; and the Wellington and Sanger cases were cited as authorities. In Michigan, the supreme court decided in the case of People

[1] 28 Pa. St. 108.

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vs. Regents[1] that a private citizen could not by mandamus force the regents of the university to appoint a professor of homœopathy in the medical school, although the law required the regents to make such an appointment. The reason advanced for the decision was again that a private citizen did not have sufficient interest; and the judge giving the opinion alludes to English, Massachusetts, Maine and Pennsylvania decisions in support of the rule he adopts, although without specific citation. The same rule was laid down in a later case,[2] where it was held, largely on the authority of Rex *vs.* Merchant Taylors' Co., the Wellington case and the Sanger case, that a private citizen, though a wagon-maker, could not, on account of lack of interest, by mandamus force the inspectors and agent of the state prison to desist from teaching convicts the trade of wagon-making and from making wagons by convict labor in the prison. It is only fair to say that this is not the only reason for the decision, but it must be admitted that it approves Judge Shaw's rule. In a still later case,[3] the Michigan court held, though without citing cases and almost without argument, that an individual could not by mandamus force a county officer who had changed the location of his office to move back to the old county seat; and the ground of the decision was that the individual could not show sufficient interest peculiar to himself and not common to all the public in the thing sought to be commanded. Finally, this rule has been adopted in Kansas in a series of decisions which, though they purport to interpret a statute relative to the mandamus, really adopt this rule as to interest; for the statute can be regarded as little more than declaratory of the common law and is susceptible of another interpretation.[4] In one of these decisions, Bobbett *vs.* State, it is said further that the decision is in accordance with Massachusetts, Maine, Pennsylvania and Michigan cases.

[1] 4 Mich. 98.

[2] People *vs.* Inspector, 4 Mich. 187.

[3] People *vs.* Green, 29 Mich. 121.

[4] Bobbett *vs.* State, 10 Kansas, 9; Turner *vs.* Commissioners, *ibid.*, 16; State *vs.* County Commissioners, 11 Kansas, 66.

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These are the most important cases cited in support of the rule that the private relator in mandamus must always show some interest peculiar to himself. The rule is practically approved by Mr. High, who, in section 33 of his most excellent work, says :

> It is of course essential to the granting of the writ as against public officers, that the relator on whose application the relief is sought should show some personal interest whose protection he seeks to enforce, and it may be stated as a general principle that mandamus will not lie to compel action on the part of public officers, where it is apparent that the relator has no direct interest in the action sought to be coerced, and that no benefit will accrue to him from its performance. To authorize the relief, therefore, it must clearly appear that there is a specific ministerial duty in the performance of which the applicant for relief is directly interested.

Mr. High does, it is true, in another part of his work — that devoted to parties in mandamus (sections 430–435) — modify considerably the statement made in section 33, and admits that the public character of the duty makes it in most states unnecessary for the private relator to show any interest peculiar to himself; but he seems to regard the Massachusetts rule as being based on reason.

The rule requiring private interest peculiar to the relator, and not common to all citizens, in order to apply for the mandamus, is thus traced back to a dictum of Chief Justice Shaw of Massachusetts, based upon a misconception of an English case. While it is supported by many decisions and is accepted by the best text-book on the subject, it is of unsatisfactory and untrustworthy origin, and it has been modified considerably by the decisions of many of the state courts, among which may be mentioned those of New York; nor has it received the approval of the United States supreme court. As modified it will read: While in cases of purely private rights and of no interest at all to the public at large, the private relator in mandamus may be held to show some interest peculiar to himself, and not common to all citizens, still, in the case of official duties whose performance is of interest to the public at large,

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he need show no greater interest than that which is possessed by all citizens; and the power to force by mandamus the performance of duties of interest to the public alone is not confined to the law officers of the government.

The leading case in New York on this subject is that of People *vs.* Collins,[1] which decided that any citizen might by mandamus force the proper authority to lay out highways which the law said should be laid out. A later case in the same state, People *vs.* Halsey,[2] held that a private citizen might apply for mandamus to force the collection of a tax which had been legally assessed. In this case the rule is particularly well stated. The judge says:

> The writ of mandamus may, in a proper case, and in the absence of an adequate remedy by action, issue on the relation of a private individual to redress a wrong personal to himself, or on the relation of one who, in common with all other citizens, is interested in having some act done of a general public nature, devolving as a public duty upon a public officer or body, who refuse to perform it.

A very recent case on the same point is that of People *vs.* The Common Council of Buffalo,[3] which held that any private citizen might apply for mandamus to force the common council of a city to make the necessary appropriations for carrying out the civil service laws of the state. This rule has been adopted in a number of other states: in Iowa, where it was held, in the case of State *vs.* County Judge,[4] that any citizen might have a mandamus to force a recanvass of votes in an election relative to the relocation of a county seat; in Indiana, in the case of Hamilton *vs.* State,[5] where it was held that a private citizen might apply for mandamus to force the county auditor to deduct from the valuation of the real estate of the county fifteen per cent which had been illegally added to it; in New Jersey, in the case of State *vs.* Common Council,[6] which held that a citizen might apply for a mandamus to force the common council of a city to proceed to order an election to fill a

[1] 19 Wendell, 56. [2] 37 N. Y. 344, 346.
[3] 16 Abbott's New Cases, 96; affirmed in 38 Hun. 637.
[4] 7 Iowa, 187, 202. [5] 3 Indiana, 452, 458. [6] 33 N. J. L. 110.

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vacancy in the representation upon the council of the ward of which such citizen was a resident; in Illinois, in the cases of Pike *vs.* State[1] and Ottawa *vs.* People,[2] in the latter of which it was held that a private citizen might by mandamus force a municipal corporation to maintain a bridge, the ground of the decision being that the duty to maintain the bridge was a public one.

The rule that in the case of public duties it is not necessary for a private relator in mandamus to show any interest peculiar to himself, seems to have been that of the old English law, notwithstanding Judge Shaw's statement to the contrary. This may be seen from the cases of King *vs.* Commissioners,[3] which held that a private citizen might by mandamus force the tax commissioners to appoint a clerk, and King *vs.* Railway Company,[4] where a railway company was forced by mandamus on the relation of a private person to lay down tracks which it had illegally taken up. The United States supreme court has approved this rule, holding, in the case of Union Pacific Railway Company *vs.* Hall,[5] that a private citizen might by mandamus force a railway company to operate its road as a continuous line if it is required so to do by law. In the opinion given in this case the court says: "There is a decided preponderance of American authority in favor of the doctrine that private persons may move for a mandamus to enforce a public duty" (page 355). Finally, it is to be noticed that the Massachusetts courts show at the present time a tendency to abandon the doctrine introduced by Judge Shaw into the law of the commonwealth. In the case of Attorney General *vs.* Boston[6] the supreme court says: "There is a great weight of opinion in favor of the doctrine that any private person may move, without the intervention of the attorney general, for the writ of mandamus to enforce a public duty not due to the government as such." The recognition of the right of any citizen to apply for mandamus in these cases does not,

[1] 11 Illinois, 202, 208.
[2] 48 Illinois, 233, 240.
[3] 1 T. R. Dunford & East, 146.
[4] 2 B. & Ald. 644.
[5] 91 U. S. 343.
[6] 123 Mass. 460, 479.

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however, deprive the government officers of the power to do the same.[1]

The rule, then, that private interest must always be shown by a private relator in mandamus, even in case the attempt is being made to enforce the performance of public duties, is not only of unsatisfactory and untrustworthy origin, but is also opposed to the greater weight of American authority. It is therefore from the standpoint of the positive common law a bad rule. Further, it is not based on adequate reason. The reason which is most commonly advanced for its adoption is that by its means a multiplicity of suits will be avoided. But if it is remembered, as the United States supreme court suggests, "that granting the writ is discretionary with the court . . . it may well be assumed that it will not be unnecessarily granted,"[2] and that, therefore, suits will not be unnecessarily multiplied. Trusting to the courts' discretion is much to be preferred to the adoption of a vicious rule of law. And it is vicious, since it makes it absolutely impossible for a private citizen to enforce by mandamus the performance by public officials of duties which affect the public alone. It is particularly vicious in a country like the United States, where the administration is extremely decentralized — where the power of the superior officers of the administration to compel inferior officers to perform their duties is so slight. By its adoption the province of the writ of mandamus is so narrowed that it may be made of use only as a means of protecting individual rights, and its use as a means of merely maintaining the law is destroyed.

While the judicial control over administrative action is instituted mainly with the idea of protecting individual rights, there is no reason why at the same time it may not be made use of subsidiarily to promote the efficiency of the administration. Experience has shown that one of the easiest ways in

[1] See People *vs.* Bennett *et al.*, 54 Barb. 480, where it was held that mandamus would issue on the application of the board of education of a village in order to force the trustees thereof to make the necessary provision for school expenses as provided by law; and Attorney General *vs.* Boston, 123 Mass. 460, 478.

[2] Union Pacific R. R. Co. *vs.* Hall, 91 U. S. 343, 356.

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which this may be done is by enlarging the popular control over officials, to be exercised through application to the courts. In the state of New York the need of some such popular control has been so keenly felt that it has been provided for in other directions by special statutes. Thus the courts of New York began at quite an early time to hold that, in order to obtain an injunction to restrain the action of public officers, the private petitioner for this relief must show some interest peculiar to himself.[1] Such was also the rule in Massachusetts.[2] The resulting emancipation of public officers from popular control over the performance of duties which interested the public alone had such evil consequences, that the New York legislature was forced to provide that any citizen and tax payer might apply for an injunction to prevent public officers from wasting public funds.[3] It is not strange that the rule demanding from the private relator in mandamus proceedings in the case of public duties, some interest peculiar to himself, should have originated in a state where such interest was requisite in application for an injunction. And it is a significant fact that one of the states which thus denied relief in injunction should have changed by statute its law in this respect, and should have brought it into accord with the rule it had been one of the first to adopt in mandamus cases. New York, at least, has thus declared that these extraordinary remedies are a means by which the people may control the performance of public duties by public officers, and that therefore private relators should not in cases of public concern be bound to show interest peculiar to themselves.

FRANK J. GOODNOW.

[1] Doolittle *vs.* Supervisors, 18 N. Y. 155.
[2] Carlton *vs.* Salem, 103 Mass. 141.
[3] Code of Civil Procedure, sec. 1925.

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OFFICIALISM IN ENGLAND.

ONE of the most interesting phases of state socialism has very recently been pressed upon public attention by the vigorous action of the English bar. For this particular phase of the general socialistic movement the lawyers have coined the term "officialism." The term is intended, like all terms coined by the enemies of a movement, to be at once an epithet and an argument, and must be taken with the same allowance as "centralization," "robber tariff" or "force bill," when those terms are used in our own political vocabulary. The term played a considerable part in the recent Parliamentary election, so far as the members of the legal profession were concerned, and one of the leading legal periodicals urged the members of the bar to "interview" the candidates in their respective districts and obtain pledges against any further extension of the movement. Publications of the Incorporated Law Society and other associations of lawyers were widely distributed "with a view to interviews with candidates"; candidates were asked to pledge themselves against the movement, or at least to make no pledges in favor of it; and in general a kind of lesser campaign was waged, in which officialism was deemed a more important question than home rule.

Having fought this preliminary skirmish, — with what success does not appear, — the lawyers are now preparing for the more serious battle in Parliament when that body shall assemble. At every meeting of the various legal societies during the past year this subject has been uppermost. Resolution after resolution has been passed denouncing officialism; many learned papers have been read on the subject; various committees have made extended reports upon it; and the profession as a unit has set itself to prevent officialism from pushing another inch in advance of where it now stands, and even, perhaps, to force the "hydra-headed monster" to retreat.

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Officialism was described by the president of the Incorporated Law Society, in his address at the recent meeting at Norwich, as a "gigantic scheme" for "the transaction of business of all kinds by officials of public departments." The report of the council of the society defined it generally as "the creation of government monopoly in the management of private business," and more specifically as "transferring to official departments professional work hitherto performed by individuals." This last is in fact the officialism to which the legal profession objects, and it is confined to the transaction by government departments or officials of certain kinds of business hitherto carried on by the lawyers either in or out of court.

The specific kinds of officialism which are either partially established or imminently threatened seem to be embodied in four distinct measures: (1) the compulsory administration of bankrupts' estates by the bankruptcy department of the Board of Trade; (2) the compulsory winding-up of joint stock companies by the same department; (3) the appointment of a public trustee and executor to administer trusts and the estates of decedents; (4) the compulsory registration of land transfers in the land registry department. It may conduce to a better understanding of the questions involved if each of these measures is examined separately.

1. As to bankruptcy, there is now in force a Bankrupt Act passed in 1883 which gives to the bankruptcy department of the Board of Trade a large power in the conduct of bankruptcy proceedings. The effects of the measure are thus described in the report of a special committee of the Incorporated Law Society which was published in January, 1892:

> The result of the act of 1883 was to take the management of bankrupts' estates out of the hands of the creditors and their representatives, and to put it into the hands of the official department. Every estate had to pass through the hands of the official receivers. It is true that the creditors ultimately had the power by a resolution to appoint an independent trustee of their own choosing, and the official receiver was, by the act of 1883, declared incapable of being

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nominated as trustee; and although this power was fettered with many formalities, it may be seen from the annual bankruptcy reports that, although under section 121 estates under £300 are left in the hands of official receivers, yet in all the more important cases non-official trustees are generally appointed. Excluding cases under £300, it appears that in the year 1890, 500 cases passed into the hands of non-official trustees, while the official administration was continued in 105 cases only. In the previous year (1889) the figures were 534 non-official as against 103 official. The preference of creditors for non-official trustees is still more clearly shown by the official report for 1889, by which it appears that of estates over £300 those intrusted to official administration realized £90,469, while those intrusted to non-official trustees realized £674,648, and that in no single case where the assets exceeded £4000 was the estate left in the hands of officials.

In a paper read by Mr. R. Pybus, at the provincial meeting of the Incorporated Law Society in October, 1892, an attempt is made to show, and figures are given to verify the statement, that the cost of official administration is considerably greater than the cost of non-official administration, and that the official bankruptcy department is a heavy charge on the tax payers, being far from self-supporting. In the report of the Board of Trade for the year ending December 31, 1891, the inspector-general confesses and avoids as to the first charge and enters an emphatic denial as to the second. As to the greater cost of official administration, he pleads that the official receiver has only the leanest carcasses to carve, and the percentage necessary for administration is consequently higher. According to his figures the cost in case of non-official administration is 26.55 per cent, and in case of official administration it is 32.65 per cent. As to the cost to tax payers, he alleges that the department has never cost the tax payer a penny since its foundation, and Mr. Pybus admits in a note to his paper that if that statement is correct some of his criticism on the official administration falls to pieces.

It is not clear whether the Board of Trade favors such an amendment of the Bankruptcy Act as would give it the fat as well as the lean carcasses to carve, but it is evident that the

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lawyers are apprehensive that the tendency toward officialism may result in that. At present it would appear that the lawyers are getting the fat carcasses to carve in cases of bankruptcy, and are using the Bankruptcy Act mainly to prove that where there is freedom of choice the private individual prefers his solicitor to a public official. Of course it is obvious that where creditors consult their legal advisers, the latter will invariably advise the appointment of a private trustee, and that therefore the bankrupt estates administered by private trustees will always exceed in number those administered by official receivers. And the larger the estate the more likely is it to be removed, because the more likely creditors are to seek legal advice. The true test as to the relative expense of the two systems would seem to be a comparison between the expense under the act of 1869, which gave creditors entire freedom, and the expense under the existing act. But one on this side of the water can speak only with great diffidence on such a subject.

2. As to the winding-up of joint stock companies, an act was passed by Parliament in 1890, which, says the report of the special committee of the Incorporated Law Society,

> has already handed over a vast amount of work to an official department, and under which also, and apparently with a view to facilitate the more active interference of that department, it is now proposed to take away the winding-up jurisdiction from the Chancery Division.
>
> Apprehension may reasonably be entertained [continues the report] lest the zeal of the bankruptcy department should lead to pressure being put on the judicial authorities with the view of placing all liquidation under the control of that department.

The purport of the act seems to be to assimilate the proceedings in the winding-up of corporations to the proceedings in administering a bankrupt estate. Upon the issue of an order for the winding-up of a company, an official receiver or liquidator connected with the Board of Trade takes charge of the assets and affairs of the company, for the purpose of making a public inquiry into the circumstances which have led up

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to the liquidation. This officer, after an investigation, makes an official statement of the condition of the affairs of the company and of the causes of its failure. After this provisional examination the affairs may be turned over to a liquidator appointed by the court, though the official liquidator, unlike the official receiver in bankruptcy, is eligible to this appointment and may, if appointed, continue the winding-up. The object is to insure a public investigation, and to uncover, if possible, the numerous frauds by which corporate managers succeed in wrecking corporations. In cases of the bankruptcy of individuals and of corporations many frauds may be perpetrated on stockholders and creditors, and many individuals be made to suffer loss, whose ignorance or want of concerted action renders all investigations futile. It is contended that an official department, by taking control of these estates and assets, and having at least provisional powers of administration, may, through experienced officials, uncover these frauds and protect persons who are unable to protect themselves. The crucial question in the matter is, whether it is the duty or right of the government to undertake these things, and on that point the English lawyers are at issue with the English government.

3. The Public Trustee Bill (for this is not yet a law) proceeds on the same lines. It is proposed that a public official be named as "public trustee" to have charge of trust estates. It is not proposed that creators of trusts be required to name this official as trustee, but they may do so, either alone or in connection with private trustees. It is of course thought by the friends of the bill that if the government undertakes to manage trust estates, the greater security offered against loss by fraud or ignorance will lead to a very general desire on the part of testators to place trusts which they may create in his hands. Although this bill, or these bills, — for several have been introduced, — provide that the testator or settler may also name the solicitor to be employed, and that if none is named the family solicitor shall act, still the legal profession oppose the bill on grounds of public policy, and as an addi-

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tional step toward officialism and state socialism. The president of the Incorporated Law Society declared in his recent address at Norwich, that

> solicitors are not easily roused from the calmness of attitude with which they habitually approach the consideration of professionally interesting subjects, but it is not too much to say that the Public Trustee Bill excited a feeling of opposition stronger, if possible, than that which was excited by the Land Transfer Bill.

Mr. F. P. Morrell, of Oxford, read a paper on the subject in which he sought to show that the bill was a mischievous one, and even if it were not, would result in no good, as creators of trusts would still prefer private trustees, and the public trustee would be an additional burden on the tax payers. On this point also the lawyers have presented a solid front in opposition to what they term officialism.

4. The Land Transfer Bill, of all others, is the one which has been most persistently and unitedly opposed. This bill proposes to make compulsory in England a system of land transfer and registry similar to that in force in Australia and many other English colonies, and which is commonly known as the "Torrens system." There is already in force a voluntary system for bringing land titles under such a registry, but, as the lawyers triumphantly point out, the public has never cared to avail themselves of it, and, it is asked, why should land owners be compelled to register their titles under such a system if they are satisfied with existing methods?

This system of land transfer has been so often described of late that it must be familiar to all students of political science. It consists, in essence, of a registration of titles instead of deeds; makes the registry book evidence of an indefeasible title in the owner registered; protects injured persons by compensating them out of a fund created by fees paid for registration; and thus renders dealings in land almost as simple as dealings in personal property. It is in fact an attempt to assimilate the law of realty to the law of personalty. When once a title is registered, the owner is no more likely to need

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the services of a lawyer in transferring it than he is to need such services in transferring a horse. It is therefore obvious that such a system would be a serious blow to the interests of the legal profession. The report of the special committee, already referred to, says :

> The capital value of real property in England can hardly be satisfactorily estimated ; but in a Treasury minute, presented to the House of Commons in 1885, the gross capital value of real property in the United Kingdom is estimated at £3,778,437,000. This vast property is used in the most various ways — in agriculture, railways, waterworks, manufactories, mines, harbors and docks and other public works, as well as for rural and urban dwellings. The persons interested, as freehold owners, leaseholders and occupying tenants, are innumerable, and the daily and constant dealings with their separate interests so frequent and intricate as to defy computation. These transactions, in which despatch is often of the greatest importance, form the daily work of professional men scattered over England, whose number exceeds 15,000. They are, according to the Land Transfer Bills, to be brought compulsorily into an office to be established by the government.

Alarm was first taken in 1886, when Lord Halsbury, lord chancellor of the late government, announced in a speech at the Mansion House the intention of the government to introduce a Land Transfer Bill. But this alarm was somewhat decreased by what the profession eagerly took up as a pledge on his part that the bill should proceed with a view to the "rights of all." The *Solicitors' Journal*, one of the leading periodicals of the profession, has consistently contended that solicitors have "vested rights" in the professional work for which they have fitted themselves, and that government cannot justly deprive them of these rights by itself undertaking this work. The Land Transfer Bill as introduced in 1887 seemed to be an attack on these "vested rights," in spite of what the profession had regarded as a pledge that their interests should be looked after. "The lord chancellor," said the president of the Incorporated Law Society in his speech at Hull in 1890, "has made up his mind to confiscate the remuneration of

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solicitors in relation to land transfer;" and the president urged the profession to "stand to its guns" in the "war" which was being waged against them by the promoters of this measure.

At a meeting of the society in London in 1892, which the *Solicitors' Journal* says was one of the largest ever known, the officialism of the government was roundly denounced, cheers greeting every speaker, and the following resolution was unanimously carried:

> That the recent and threatened extension of officialism is opposed to public policy and to the wishes of the persons whose private interests are concerned, who prefer to manage their own affairs in their own way and to leave the transaction of their business to agents of their own choosing.

The mover of the resolution, Mr. Godden, placed it in his speech mainly on the ground of public policy. But Mr. Parker, who supported the resolution, frankly stated that he dissented from Mr. Godden's opinion that they should take the public point of view, and insisted that they should take the professional point of view; for if there were to be any additions made to the private affairs managed by officials, then they as a profession must consider their days numbered. If the public wished to be heard, let it speak. But so long as solicitors as a profession were allowed to exist and to keep up a monopoly, so long they were entitled to be heard. The *Solicitors' Journal* declared that Mr. Parker's able and downright speech was more in accord with the views of the meeting. Mr. Gribble, who also spoke for the resolution, called attention to the enormous patronage which officialism would give to the government, and declared that it was exceedingly probable that the same results would follow in England as in America, namely, that they might see these officials appointed and removable by the government, and everybody knew the evils which had resulted in every village in America from this state of things.

The same divided view as to the best methods of defence prevailed at the recent meeting at Norwich. The president, Mr. Pennington, took the view of public policy, but Mr.

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Addison, like Mr. Parker, said it was idle to pretend to neglect or overlook the interests of the solicitors themselves. The resolution moved by Mr. Addison was adopted: "That the system of official transaction of private business is against public policy, and unjust to the individuals with whom the officials compete."

The whole matter from the point of view of the solicitors is put in a series of statements which appear in a report of the council of the Incorporated Law Society. Some of these statements are as follows:

Government interference in the management and administration of private affairs — *i.e.* not of general public concern — is undesirable, and the conduct of such business is better left to the control of the persons directly interested.

Government monopolies carrying on administrative business are against public policy.

Official departments undertaking private business, and not self-supporting, become a burden to the public exchequer with no corresponding public benefit.

There is no public demand for increased officialism, and proposed extensions emanate from official departments. Public opinion is adverse to official interference, and the public prefer to manage their own affairs in their own way.

The increase of patronage in the appointment to numerous highly-paid offices is to be deprecated.

An official system which is not required and not self-supporting is a source of danger, as likely to press for extension of its operations, either compulsorily or otherwise.

Official administrative systems tend to become less efficient and more incumbered with routine, having no personal inducements to maintain a high standard of efficiency.

Unsatisfactory administrative official systems, when once established, cannot be replaced without compensation or injustice.

These statements probably put the case of the solicitors in as favorable a light as possible, for they are all addressed to questions of public utility. But, as has been pointed out, a large number of leading solicitors frankly admit that the solicitors must recognize the fact that they are fighting for

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professional privileges which they have enjoyed time out of mind, and that they cannot hope to escape the charge of being actuated by personal motives. To these statements must therefore be added those already referred to, namely, that solicitors have "vested rights," that they have spent their time and money to fit themselves to do a work which the law encouraged them to undertake, and that the government cannot justly deprive them of this work by itself undertaking it. One paper read at the recent meeting at Norwich was happily entitled: "The State Turned Solicitor," an expression which conveys the idea that in addition to the natural competition among the profession as individuals, there is, under this system of officialism, the vastly greater competition of the state itself, which offers its services on terms more favorable, it may be, than any a private person can afford to offer. It is not strange, therefore, that a professional class accustomed to regard its privileges as the most sacred of any conferred by law or custom, should see in this movement a menace to itself and to the public welfare. The opponents of the system pertinently ask why, if the government turns solicitor, it should not also turn physician or dentist; and at this point the discussion verges fairly into the field of debate between individualism and state socialism.

This opposition of a united profession is certainly an interesting phenomenon in what must be conceded to be the steady growth of state socialism in England. In their public meetings and in their professional papers, notably the *Law Times* and the *Solicitors' Journal*, the most active and the ablest practical opposition to state socialism has been developed. Heretofore the socialistic measures adopted by the government have been of such a character as to touch mainly large corporate interests whose influence is measured principally in money, while the purpose of the measures has appealed strongly to public sentiment. But in the domain of legal reforms the measures do not appeal so directly to the sympathies or to the interests of the public, while they do come in contact with the interests and the prejudices of the ablest and

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most influential body of men in the community. Such measures, therefore, have a double obstacle to overcome, the indifference of the people and the open hostility of the legal profession.

In spite of these obstacles two measures have already been passed which give to officials much of the work heretofore done by solicitors, and there seemed to be a purpose on the part of Lord Salisbury's government to extend the scope of those measures so as, possibly, to turn over to the government the administration of all bankrupt estates and of all corporate liquidation. The success in passing those measures emboldened the government to push vigorously the other two which are yet in abeyance, namely, the Public Trustee Bill and the Land Transfer Bill, but the dissolution of Parliament and the defeat of the government furnished a breathing spell to the enemies of the measures. It remains to be seen whether Mr. Gladstone's government will take up these new measures and seek to extend the two already in force. If it should, or if private members should bring forward bills for that purpose, there is likely to ensue a determined struggle between the promoters of what are denounced as "socialistic" measures and the defenders of what are termed "individual" rights. The discussion will take a wide range, including the questions of constitutional right, ancient liberties, public policy, economy in administration, government patronage, the freedom of business enterprise, vested rights, and last, but not least, the personal interests of fifteen thousand solicitors, who obey the first law of nature in engaging in a supreme struggle for self-preservation.

ERNEST WILSON HUFFCUT.

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A STUDY IN VITAL STATISTICS.

VITAL STATISTICS may be defined as that branch of statistics which studies the population of a country, as distinct from the acts or products of the population. The term corresponds almost exactly to what the Germans call statistics of population (*Bevölkerungsstatistik*) and to what some French writers call demography (*démographie*). There are two great divisions of vital statistics: one investigates the condition of the population at a certain date, and thus disregards the element of time and change; the other investigates the changes in the population between two points of time. The statistical material for the study of the first branch is contained in our censuses, state and national, which seek to give an instantaneous photograph of the population at a certain moment. Practical difficulties may keep this from being more than a purely ideal goal, like a limit in mathematics; but it is a goal that may be approximated indefinitely. Our censuses also give much aid in studying the second division of vital statistics. From a comparison of two censuses we may draw certain conclusions as to the changes that have occurred in the interim. Thus if the population has increased, we may infer with certainty that the increase from births and immigration has exceeded the decrease from deaths and emigration by the amount of the total increase. But censuses do not of themselves furnish any analysis of the changes of population, any determination as to the relative importance of the various causes at work. Hence the need for continuous records of certain important and frequently recurring changes. Such records now commonly include the number of births, immigrants, cases of sickness, deaths, emigrants, marriages and divorces. The phrase vital statistics is often used in a limited sense to denote a comparison of these changes with the total

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population and with one another; it is even sometimes narrowed to a study of births, marriages and deaths. In the foregoing analysis I have sought to justify its use in the wider sense and to show that vital statistics is a distinct and clearly marked branch of statistics, if indeed it be not, as is claimed by several French writers, a separate science.

The materials for the study of vital statistics are contained in the various censuses and in periodical registration reports of some form. Our national censuses are tolerably satisfactory, but the continuous registration of important changes, except the immigration over sea, is left to the separate states and is in the main very imperfect or entirely wanting. As there is no record of overland immigration and no record of the counter-current of emigration, it is obvious that the sources for the study of vital statistics in the United States are extremely incomplete. With the exception of Spain, all the great states of Europe publish their yearly record of marriages, births and deaths. Even the imperfect statistics of Russia are in this respect superior to those of the United States. Six years ago the national government, to meet a pressing practical need for information, entered this field so far as to collect and publish the existing statistics of marriages and divorces for the preceding score of years.[1] The result of the investigation of marriages, the compiler himself declared,

> is thoroughly incomplete and unsatisfactory. Very few states have any registration system by which marriages are recorded. . . . In some the work of compilation at the central office is so carelessly and inaccurately done as to detract greatly from their value. . . . Twenty-one states provide for returns to some state officer of marriages celebrated. These returns as a rule, however, give but few facts relative to the persons married, and the facts that are given are not identical and are compiled so carelessly as to be nearly worthless.[2]

[1] A Report on Marriage and Divorce in the United States, 1867 to 1886; by Carroll D. Wright, Commissioner of Labor. Washington, 1889.

[2] Report, pp. 18, 19.

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In a recent examination of the volume[1] I sought to analyze and interpret its figures so far as they relate to divorce. The object of the present paper is to set forth some results of my further study in the field of vital statistics as above defined. The sources are so fragmentary as to prevent any attempt at presentation of the conclusions in systematic form. Since our judicial statistics of divorce are much better taken and preserved than our civil statistics of births, marriages and deaths, for a long time to come the former must occupy a disproportionately large place in any treatment of the vital statistics of the United States.

For any detailed study of vital statistics it is important to know the population for each year, in order to compare the number of births, deaths, marriages or divorces with the whole number of people. As this population is ascertained only once in ten years, or in some few states once in five years, the population for the intermediate years must be found indirectly. The method of assuming that in each year of the interval the population changed by the same amount, one-fifth or one-tenth of the change observed in the five or the ten years between censuses, is the most simple and obvious one, and while not entirely accurate, it is sufficiently so for the purposes of this article. By this method the population of the country or of any state, county or city may be found for any year between 1870 and 1890. But we cannot suppose that this method will give even approximately accurate results between 1860 and 1870, because the rate of increase during the Civil War cannot have been as great as it was just after its close. Five states, Massachusetts, Rhode Island, New York, Iowa and Kansas, took a state census in 1865; and Michigan took one in 1864, from which the population of that state in 1865 may be estimated. These six states, embracing in 1860 over one-fifth of the population of the country, increased in five years, 1860–65, from 6,817,653 to 7,035,740, or only 3.2 per cent. At first thought it might seem fairest to apply this ratio to

[1] The Divorce Problem. Columbia College Studies in History, Economics and Public Law, No. 1. New York, 1891.

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the whole country and compute the population of the United States in 1865 by assuming it to have been 3.2 per cent greater than the population in 1860. But it is to be observed that the last three of these states were growing with great rapidity through the decade, so that the total population of the six states increased, 1860–70, 29.1 per cent, while the increase of the whole country was only 22.7 per cent. On the other hand the population of the three eastern states slightly decreased, 1860–65, from 5,286,421 to 5,279,814. Hence it seems fairest to assume that the growth in the western states was neutralized by the loss of population in the southern and border states, and that the population of the country as a whole was the same in 1865 as in 1860. On this assumption the population for each year 1865–70 may be estimated in the same manner as for subsequent years.

After finding the total population for any year, the birth rate, death rate, marriage rate or divorce rate for that year may be computed in case the total number of births, deaths, marriages or divorces for that year is given by a registration report or otherwise. This is done by dividing the number of births, deaths, marriages or divorces for the year by the population for the year and multiplying the decimal thus obtained by 100, 1000 or 100,000. The result obviously expresses the number of births, deaths, marriages or divorces in each 100, 1000 or 100,000 of the population, provided that these changes are distributed with entire uniformity, an assumption never more than approximately correct. The advantage derived from such a computation is that it makes unnecessary further consideration of differences in population. It thus renders easy a comparison of the amount of marriage or divorce in communities or states widely different in their populousness, as well as within the same community or state for different years. In the following pages the number 1000 has been uniformly employed as the basis of the rates except for divorce, where, in order to avoid decimals, 100,000 has been substituted. In some cases the graphic method of presenting results or illustrating relations has been used, as easier of apprehension than columns of figures.

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Marriage Statistics.

Only in five states, Vermont, Massachusetts, Rhode Island, Connecticut and Ohio, and in the District of Columbia, can the number of marriages be obtained with approximate completeness for each one of the twenty years.[1] To these may be added Illinois, where the records since the Chicago fire are apparently complete. Any results that may be obtained from an examination of these states or parts of them are hardly to be regarded as applicable south of the Ohio or west of the Mississippi, where the conditions are widely different.

How does the marriage rate in these states compare with the rate in European countries? The following table gives the number of persons marrying to every thousand of population in several European countries[2] and in these states for the year 1876, the mean of the twenty-year period.

Marriage Rates in 1876.

Hungary	19.8	District of Columbia	20.0
German Empire	17.0	Rhode Island	17.8
England and Wales	16.6	Ohio	17.5
Austria	16.2	Illinois	17.1
Italy	16.2	Vermont	15.9
France	15.8	Massachusetts	15.4
Scotland	15.0	Connecticut	13.2
Ireland	10.0		

Although no trustworthy conclusions in detail can be drawn from a single year, and although the pressure of the hard times in 1876 was probably somewhat more influential in the United States than in Europe in lowering the marriage rate, yet the general conclusion I believe to be warranted, that in the north-eastern and north-central states the average marriage rate is only slightly higher than the average rate in Europe; and that if we except Ireland on the one side, and Connecticut on the

[1] Report, p. 129.

[2] The figures for the European states are derived from the appendix to von Oettingen's Moralstatistik, third edition, pp. i–iv.

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other, as either abnormal or imperfectly reported, the variations from this average rate are not very much wider on one side of the Atlantic than they are on the other.

Does the marriage rate in this country show any tendency to change? In most European countries the marriage rate has somewhat decreased in the past twenty years. A similar falling off is apparent in those states of this country about which the facts are obtainable. The following table gives the marriage rate for the first and the last year reported and the decrease.

Decrease of the Marriage Rates of Certain States in Twenty Years.

	Marriage Rate in 1867.	Marriage Rate in 1886.	Decrease.
Vermont	17.8	15.6	2.2
Massachusetts	21.6	18.0	3.6
Rhode Island	24.4	17.6	6.8
Connecticut	19.5	15.8	3.7
District of Columbia	33.3	20.7	12.6
Ohio	23.8	16.4	7.4
Illinois[1]	23.6	17.7	5.9

As there has been some decrease in every case, it is fair to presume that the same is true of the other states adjacent to these. It might be objected that the rate in 1867 was probably increased by the celebration in that year of some marriages which would have occurred earlier had they not been postponed by the war. But a comparison of the rates in these states for each year of the twenty confirms the conclusion indicated by the table above, that there has been a general though irregular downward tendency through the twenty years.

Is the decrease of marriage more marked in the cities or in the country? It is difficult to find a clear and general answer in the figures. The state of Ohio makes no returns by counties, and hence no comparison between city and country is there possible. In Massachusetts I have selected counties containing almost no large city, and have compared their

[1] Exclusive of Cook County, containing Chicago, in which the records were destroyed in 1871.

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average marriage rate with that of Suffolk County (containing Boston). In Connecticut I have compared the average marriage rate of the three counties which contained in 1890 the eight largest cities, with the average rate of the other five counties of the state.

Decrease of Marriage Rates in Urban and Rural Districts Compared.

DISTRICTS MAINLY RURAL.

	Marriage Rate in 1867.	Marriage Rate in 1886.	Decrease.
Vermont	17.8	15.6	2.2
Massachusetts (7 rural counties)	19.9	16.1	3.8
Connecticut (5 rural counties) .	19.6	15.1	4.5
Illinois (outside Cook Co., 1872–86)	17.6	17.7	0

DISTRICTS MAINLY URBAN.

	Marriage Rate in 1867.	Marriage Rate in 1886.	Decrease.
Rhode Island	24.4	17.6	6.8
Massachusetts (Suffolk Co.) . .	26.7	20.6	6.1
Connecticut (3 urban counties) .	19.4	16.1	3.3
Illinois (Cook Co., 1872–86) . .	31.9	23.6	8.3
District of Columbia	33.3	20.7	12.6

As Vermont contains no city with a population of 15,000 or over, the whole state has been treated as a rural district. In Rhode Island 77 per cent, and in the District of Columbia 83 per cent, of the population were classed as urban by the census of 1880; accordingly both are treated as urban in the table. The general result of this comparison is to indicate that the decrease in the marriage rate has been somewhat greater in cities than in the country. The exception in the case of Connecticut may be due to the imperfect registration of marriages in that state, and to the fact that omissions have been more numerous in the urban counties. The rural rate is about normal, while the urban rate is very low.

Is any change occurring in the average age at which marriage is contracted? No suggestion of an answer to this question has been found except in Massachusetts, where the average age of the parties is reported. As the main significance

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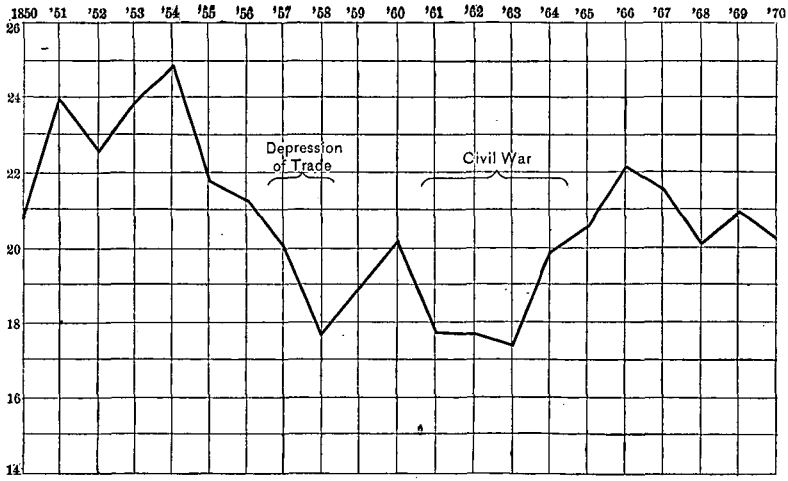
attaches to the age at which people enter upon marriage, I give here only the average age of those who married for the first time.

Average Age of Marriage in Massachusetts.

	1871.	1890.	Increase.
Bachelor grooms	26.3	27.2	.9
Maiden brides	23.5	24.3	.8

Does a study of the marriage rates reveal any causes of the changes that have occurred? Such a study is more readily made by the aid of a diagram than from a column of figures. As we have reports of the marriages in Massachusetts for a long period of time and as that state is fairly typical of the part of the country to which our study is confined, I present here a diagram of the marriage rates in that state for the past forty years.[1]

MARRIAGE RATES



This diagram shows clearly the influence of the Civil War and of the three depressions of trade and industry in discouraging marriage. At the same time it illustrates the general downward tendency of the rate. Somewhat similar but less marked fluctuations are shown in Rhode Island and Connecticut for the period since the war. On the other hand, in the

[1] Compiled from Mass. Registration Report, 1889, p. 272; 1890, p. 245.

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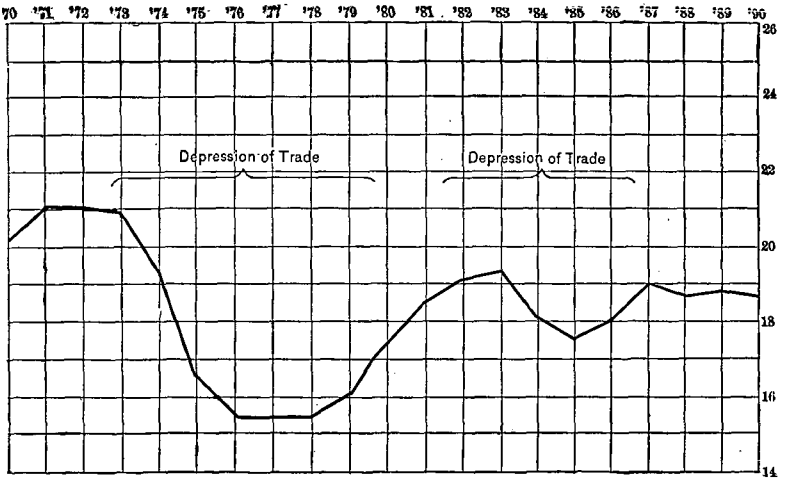
predominantly agricultural state of Vermont there is almost no trace of any influence of the depression of trade. This suggests that the hard times discouraged marriage more powerfully in commercial centers than in rural districts; and the inference is confirmed by a comparison of city and country rates in Massachusetts and Illinois. In the three years, 1873–76, the Suffolk County rate fell off 7.8, while the average rural county rate fell only 3.1. The Cook County rate fell, 1873–76, no less than 14.7, while in the rest of Illinois the fall in those years was only .7. In all these cases the influence of the hard times would be shown even more clearly if only first marriages were included. The marriage of bachelors is a much more sensitive barometer of the economic condition and hopes of a community than the whole number of marriages. With economic distress the proportion of marriages by bachelors sinks and that of

IN MASSACHUSETTS.



marriages by widowers rises. Thus in Massachusetts, in the three years, 1873-76, the number of bachelors marrying fell off 24 per cent, but that of widowers remarrying decreased only 11 per cent.

Divorce Statistics.

As before stated, the divorce rates given in this article represent the average number of persons divorced (not the

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number of divorces) to every 100,000 of the population. Since the marriage rates give the average number of persons marrying, and not the number of marriages, to every 1000 of the population, it is obvious that the frequency of marriage and of divorce may be readily compared by moving the decimal point in the divorce rate two places to the left.

How does the divorce rate in the United States as a whole compare with the rate in other countries? The following table[1] will give an approximate answer to the question. As the number of divorces is quite generally increasing in Europe and this country, I have chosen the year 1886 instead of 1876 for comparison. Where no date is given, 1886 should be understood.

Divorce Rates (including Separation) in Various Countries.

Ireland	.28	German Empire	25.97
Italy (1885)	3.75	France	32.51
England and Wales	3.79	Switzerland	64.49
Canada	4.81	United States	88.71
Australia (including New Zealand and Tasmania)	11.14	Japan[2]	608.45

The divorce rate of Japan is especially interesting, since I believe Japan is the only non-Christian country that collects and publishes its vital statistics. Whether it is even approximately a fair type of other non-Christian countries or whether its high rate is due to local and exceptional conditions, I am unable to state. In the year 1886 there were in Japan 315,311 marriages and 117,964 divorces, more than one divorce to every three marriages and more than four and a half times as many divorces as there were in the United States, although the population of Japan was only about two-thirds as great. But among the professedly Christian countries the United States has the largest divorce rate.

[1] The data from which these rates have been computed for European countries are mainly found in the valuable appendix to the Report on Marriage and Divorce. Those for Australia have been kindly furnished me by T. A. Coglan, government statistician of New South Wales.

[2] Résumé Statistique de l'Empire du Japon (Tokio, 1891), pp. 10, 17.

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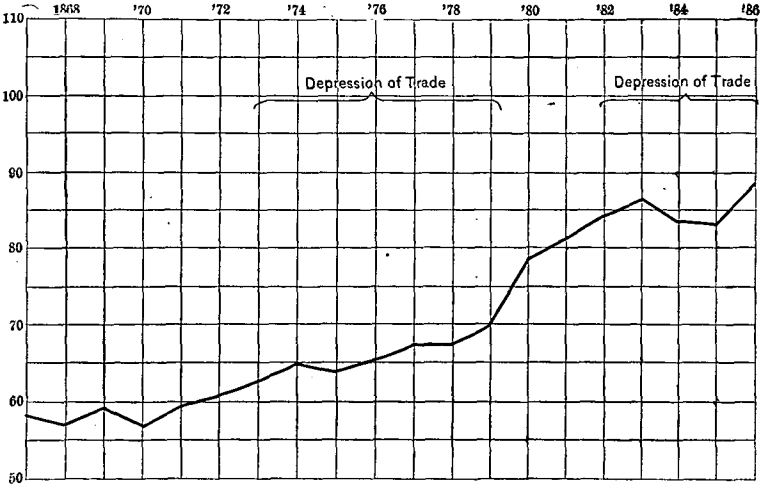
What change, if any, is taking place in our divorce rate? This question may be most intelligibly answered by the following diagram expressing the divorce rate of the United States for each of the twenty years, 1867–86, in the form of a curve, or more accurately, a broken line. The amount of divorce to every 100,000 of the population for each year is indicated by the distance from the bottom of the diagram to the broken line, and the prevailingly upward tendency of the line expresses the gradual rise in the divorce rate. In only five of the nineteen cases does the line descend. This shows that in only five years was the rate lower than it had been the year before, while in fourteen cases there was an increase. And the average annual decrease in these five years was markedly less than the average annual increase in the fourteen years.

DIVORCE RATES IN THE UNITED STATES.



May any causes influencing the divorce rate be determined from the figures? A study of the rates for the years of commercial depression will show that the increase of divorce in those years was checked or turned into a decrease. To show how closely the divorce curve of the United States and the marriage curve of Massachusetts correspond, they should be placed side by side. But even then the similarity

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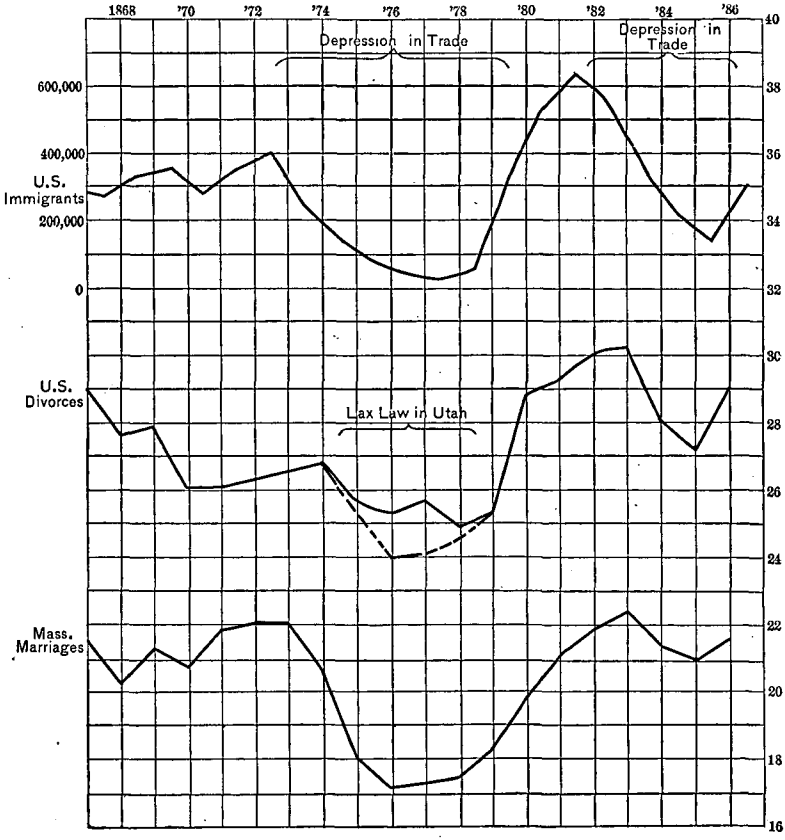
of the two curves in details is obscured by the fundamental difference that the general trend of the marriage curve is downward and that of the divorce curve upward. For purposes of comparison this difference may be eliminated on the assumption that the complex forces tending to decrease marriage and the complex forces tending to increase divorce were uniform in their action throughout the twenty years. The effect of applying such an assumption is practically so to change the curves that the ends of each shall lie in the same

IMMIGRATION, DIVORCES AND MARRIAGES.



horizontal line, while the variations from year to year are but little affected. The above diagram presents to the eye the curves thus altered. For confirmation the curve of immigra-

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tion to the United States, also changed from an ascending to a horizontal curve, has been added to the others. As the year for which the immigration is reported ends June 30th, the angles in the immigration curve have been placed midway between the years.

In the divorce curve it will be seen that two rates are given for each of the four years 1875–78. An explanation of this will be offered later. Suffice it to say at present that between 1874 and 1876 the decrease of the divorce rate would probably have been greater than is indicated by the unbroken line, had it not been for the number of divorces granted in Utah in those years under a lax local law, and that the limit of decrease without that law has been found and is indicated by the dotted line. But for the Utah divorces it is practically certain that the divorce curve of the country for those years would have lain somewhere between the two limits, one expressing the divorce rate actually found and the other what that rate would have been had no divorces been granted in Utah to parties residing at a distance, *i. e.* in a non-adjacent state or territory.

The general similarity of the three curves is so marked that one is almost compelled to admit that in large measure they are influenced or controlled by the same forces. Especially clear is the great influence of the depression in trade from 1873 to 1879 and the slighter depression from 1882 to 1886. The relation between the United States divorce curve and the Massachusetts marriage curve is quite remarkable. From 1870 to 1871 the adjusted marriage curve rose while the divorce curve fell slightly. The influence of the panic of 1873 was felt the following year in diminishing the number of marriages in Massachusetts, but not till 1875 was it shown in the divorce rate. It should be remembered, however, that a divorce speaks from the date of the decree and not from the date the suit is begun. The decrease of decrees entered in 1875, therefore, would very probably correspond to a decrease of suits begun in 1874. The adjusted divorce curve fell between 1877 and 1878 while the marriage curve rose. This may be explained

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by the repeal of the lax Utah law in February, 1878. With these three exceptions, two of which, I believe, are only apparent, the two curves uniformly ascend and descend together and reach their maxima and minima in the same years. The inference is irresistible. Depressions in trade have had a tendency to decrease divorces as well as marriages. In the great mass of the population they have discouraged change, have compelled men and women "in whatsoever state they were, therewith to be content," or at least to abandon or postpone the idea of change.

This influence of commercial depressions on the divorce rate has never before been suggested, so far as I am aware. It is, indeed, somewhat doubtful whether it exists in European countries. In England, at least, in the years in which the number of marriages has been diminished by hard times, the number of divorces has not fallen off, but rather increased. In 1879 and 1885 the divorce rate in England and Wales was higher than for any one of the other eighteen years, while in these two years and in 1886 the three lowest marriage rates of the period were presented. The expense and delay involved in procuring a divorce there are so great that only somewhat wealthy persons can go into court, and they do not feel so severely the burden of a financial crisis. This conjectural explanation derives some support from the fact which a French statistician of eminence [1] claims to have proved, that such periods of distress in Great Britain, while checking marriage among the poor, are attended by an increase of marriage among the rich. This difference between the effect of hard times in England and in the United States, together with the very rapid increase of divorce among the Southern negroes, and the fact that only about one wife in six of those obtaining divorces receives any alimony, are among the indications that divorce has become very frequent and perhaps most frequent among our lower middle classes, and has reached for weal or woe a lower stratum than perhaps anywhere in Europe.

[1] See Dictionnaire Encyclopédique des Sciences Médicales, article "Grande Bretagne," by Dr. L. A. Bertillon, § 32.

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Is divorce more common in cities or in the country? To this question an unhesitating answer may be made. Almost everywhere in this country the divorce rate of a large city is higher than the rate in the neighboring rural districts. The evidence of this statement may be most conveniently presented in connection with the discussion of the following topic.

Is the difference between city and country divorce rates increasing or decreasing? In the study of this question I have selected the following states, either as containing large cities or as fairly typical of the part of the country in which they lie: Massachusetts, New York, Pennsylvania, Georgia, Ohio, Illinois, Missouri and California. As the Cincinnati records have been lost, Cleveland, the second city of Ohio, has been compared with the rest of the state. It would be natural to choose New Orleans for the typical Southern city, but the Louisiana records are very imperfect, and hence I have selected Georgia, where the records seem to be excellent. In default of any single large city in that state, the average rate for the five counties in which are situated Atlanta, Augusta, Columbus, Macon and Savannah, its five largest cities, is compared with the average rate of the other counties. In New York State, the counties of New York and King's are treated as a single population center, whose average divorce rate is compared with the rate outside. So in Pennsylvania, the average rate of Philadelphia and Allegheny Counties, the latter including the cities of Pittsburg and Allegheny, has been compared with that of the rest of the state, and in Massachusetts the rate of Suffolk County, containing Boston, has been compared with the average rate of eight counties containing almost no large city. The results of the comparison are stated in tabular form on the next page. A minus sign prefixed to a number in the column headed "increase," indicates that the number should be read as a decrease. The Massachusetts rates cannot be compared with those of the other states, because in the former the base is different and more accurate, *viz.*, 10,000 married couples rather than 100,000 people.

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Increase of Divorce Rates in City and Country in Twenty Years.

STATE.	City Divorce Rates.		Country Divorce Rates.		Increase in Cities in Twenty Years.	Increase in the Country in Twenty Years.
	1867.	1886.	1867.	1886.		
Massachusetts	34.4	42.3	16.7	29.6	7.9	12.9
New York . .	59.8	35.6	29.3	35.8	—24.2	6.5
Pennsylvania .	29.0	57.4	39.1	43.3	28.4	4.2
Ohio . . .	132.5	164.1[2]	78.2	99.1	31.6	20.9
Illinois . . .	255.6[1]	182.8	109.7	134.7	—72.8	25.0
Georgia . . .	29.5	64.1	22.2	34.1	34.6	11.9
Missouri . .	87.9	134.7	45.0	91.1	46.8	46.1
California . .	112.9	288.8	79.9	154.5	175.9	74.6

Of course no conclusions can be drawn from only two years unless they are fair examples of the general trend. So in each case the rate has been computed for every year of the twenty, and it is believed that the foregoing are trustworthy indications of the variations that have occurred in the interim. The table shows that in Pennsylvania, Ohio, Georgia and California the increase of divorce has been more rapid in city than in country; that in Missouri the rate of increase has been practically the same in the two regions; while in Massachusetts, New York and Illinois the increase has been more rapid in the country. It is noteworthy that New York, Brooklyn and Chicago have shown a marked decrease of divorce rate in twenty years, the rate in Chicago in 1886 being not very much higher than in Cleveland and much lower than in San Francisco.

The table also shows how generally the city rate is higher than the country rate. In only two of the sixteen instances does the city rate fall below that of the rural districts, and if we extend our observation over the twenty years for each of these eight states, it appears that in only nine of the one

[1] This is for 1872, as no earlier record is extant.

[2] This is for 1885, since the rate in 1886 was abnormally and inexplicably low, lower than for any other year of the twenty, so that I am forced to doubt the completeness of the record.

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hundred and sixty instances does the city rate fall below the country rate. If these be accepted as fair types of the country at large, we may say that in about ninety-five per cent of the cases the divorce rate of a large city is greater than that in the other counties of the state.

To what extent can legislation be shown to have influenced the divorce rate? In the recent study of the divorce question already cited I examined the evidence offered by Mr. Wright[1] to show that legislation had influenced the divorce rate in fourteen states and territories and came to the conclusion that the evidence was insufficient to prove a marked influence of legislation in the majority of these cases. In five the evidence failed when tested; in five others the influence appeared on scrutiny to be slight or temporary; in two the evidence could not be analyzed in detail; so that in only two was the influence of law clear and considerable. In the light of some press criticisms and of newly discovered evidence, this conclusion requires some modification in respect to Utah and Massachusetts.

Utah. This territory formerly had a very lax divorce law, allowing decrees to issue to persons who merely declared an intention to become residents and alleged incompatibility of temper as a ground. The rapidity, secrecy and cheapness with which a divorce decree of seeming validity could be obtained by non-residents led to the flooding of the Utah courts in some five counties with cases sent thither by lawyers doing business in Eastern cities. In 1878 the law was amended and the number of divorces in the territory fell from 914 in 1877 to 122 in 1879. This seemed to indicate that the amended legislation had reduced the annual number for the whole United States by about 800. My reason for questioning that conclusion, however, was that coincident with the increase of divorce in Utah in 1875, there was a decrease in Chicago and New York, from which cities most of the Utah cases were sent; and coincident with the repeal of the Utah law there was an increase in the number of

[1] Report, pp. 150-157.

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divorces in those cities. Add to this the fact that both New York State and Illinois, outside the largest cities, showed a steady increase during the years of numerous Utah divorces, and the evidence seemed convincing that we had to do with a deflection of the divorce current rather than with a decrease of its volume.[1]

At that time I was ignorant of the influence of hard times in checking divorce — a fact discovered by subsequent study — and ignorant also, of course, that this influence is more potent in large centers than in rural districts. These two discoveries throw new light on the question. The decrease of the divorce rate in New York City and Chicago after 1874 may be due either to the hard times or to the sending of divorce cases to Utah; the increase of the divorce rate after 1878 may be due either to the repeal of the Utah law or to the revival of business. I am disposed to believe that both influences were at work, but that the depression of business and the reduction of wages were far more influential than the deflection of the divorce current to the Western territory.

Mr. Wright has kindly furnished me with an unpublished statement of the places in which the parties divorced in Utah were married. Twice as many were married in New York as

[1] It should be noticed that these Utah decrees have in several instances come before the courts outside that territory for construction, and in accordance with a well-settled principle of law, have been uniformly held null and void for want of jurisdiction over the parties. For example, a physician living in Minnesota obtained a divorce in Utah in 1876, and in the belief that he was thereby released from the ties of his former marriage, a belief confirmed, as he averred, by competent legal advice, he speedily married again. A year later he was indicted for polygamy. On the trial the Utah decree was refused admission as evidence, the court holding that he must be presumed to have known the law and to have been aware that a decree issuing from a court without jurisdiction was invalid, and he was found guilty. He was sentenced to the state prison for two years, and on appeal to the supreme court of Minnesota the judgment and sentence were unanimously affirmed. State *vs.* Armington, 25 Minn. 29. Similar decisions involving these Utah decrees have been reached on criminal trials in New York, Indiana and Iowa, and in civil suits in Massachusetts, Kansas and Tennessee. The earliest, I believe, of these decisions was reached in 1877, so that they could hardly have exerted much influence in reducing the number of applications before the law was changed a year later.

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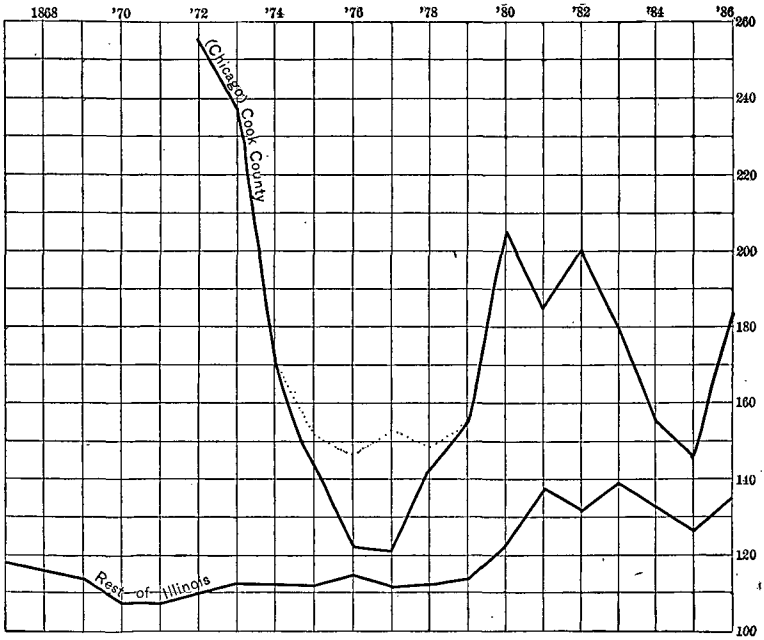
in any other state of the Union. This may be plausibly explained as due in great measure to the stringency of the New York law, which allows divorce only for one cause. Hence there would be in this state a great number of deserted or cruelly-treated husbands or wives, in addition to those merely discontented with their choice, and many of these might be allured by the advertisements of the divorce lawyers. The second state on the list was Illinois. As its divorce law is lax, a majority of those residing there and seeking divorce in Utah might have obtained a divorce under Illinois law, though less readily, secretly or cheaply. For the purposes of illustration assume that all the divorces of parties married in Illinois and

CITY AND COUNTY (ILLINOIS) DIVORCE RATES.



divorced in Utah were granted to residents of Chicago; or, what amounts to the same thing, assume that the number of such divorces to persons not residing in Chicago was equal to the number granted to residents of Chicago who had been married outside of Illinois. Assume also that if all these divorces had not been granted in Utah they would have been granted in the

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local court. On these assumptions the divorce curves of Cook County and of the rest of the state may be constructed both as they actually were and as they would have been had the Utah divorces of parties married in Illinois all been granted in Cook County. These curves are shown by the preceding diagram.

Note the very rapid decrease of the divorce rate in Chicago from 1872 to 1876, probably due in large measure to industrial depression. Note that this decrease is confined to the city and does not appear in the rest of the state. Note also the influence of the possible diversion of divorces to Utah in accentuating that decrease. It is probable that some but not all of the divorces of Illinois marriages granted in Utah would have been obtained in Cook County if the cases had not been sent west. If this is so, the true divorce curve of Cook County, as it would have been but for the advantage taken of the Utah law, would be somewhere between the unbroken line, indicating the curve of the actual divorce rate, and the dotted line, indicating the rate found by adding to the divorces granted in Chicago in each year the divorces granted that year in Utah to parties married in Illinois. Attention may also be called to another inference from the diagram, that the divorce rate in Chicago has decreased since the fire, while the rate in the rest of Illinois has somewhat risen.

Massachusetts. In this state there was a noticeable increase of divorce between 1872 and 1874, which Mr. Wright stated[1] was probably due to a change of law in 1873, whereby the period of desertion necessary to give ground for divorce was reduced from five to three years. To this opinion I objected that such a change could have increased only the number of divorces for desertion, whereas in fact the increase of divorces granted on other grounds in the two years had been relatively much greater — 92 per cent as compared with 69 per cent. Hence some other reason for the increase must be sought. In an able and suggestive criticism of my discussion[2] Dr. Dike says:

[1] Report, p. 154.

[2] Legislation and Divorce, *N. Y. Evening Post*, July 2, 1891. I am much indebted to this letter; not so much, however, for any new facts it brought out as for the stimulus it gave me to reopen the question of the influence of legislation on divorce.

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Mr. Wright apparently overlooked in his statements of the influence of legislation in Massachusetts — what he had shown in his state report of 1880 — the fact that four new grounds of divorce created in 1870 first affected the statistics in 1874 and made most of the increase of 92 per cent.

Here is a new cause suggested for the increase — a change of law, but one of more sweeping character than that of 1873. Yet I must insist upon the position previously taken, that no causal relation can be established by observing an effect and merely pointing out an antecedent phenomenon that may account for it. Not only must the cause and effect occur together, but when the cause is absent the effect must likewise disappear. Neglect of this principle seems to me a fundamental error underlying much of Mr. Wright's discussion of the influence of legislation on divorce, and the same oversight occurs in Dr. Dike's reply. Dr. Dike gives a valid answer to my argument, but not, I think, to my conclusion. He shows that a sweeping change of law and an increase of divorces coincided in Massachusetts. But he does not consider the movement of the divorce rate at the same time in the adjacent states beyond the reach of this change of law. As a matter of fact, in every one of the eight other states from Maine to Pennsylvania inclusive, as well as in Massachusetts, the divorce rate increased from 1872 to 1874. Hence the increase in the latter state cannot be set down as due solely to the local change of law. The following table will present the facts concisely.

Increase of Divorce in North Atlantic States, 1872–1874.

	Divorce Rate in 1872.	Divorce Rate in 1874.	Increase.
Maine	133	147	14
New Hampshire	123	170	47
Vermont	92	110	18
Rhode Island	194	199	5
Connecticut	162	186	24
Massachusetts	44	76	32
New York	26	31	5
New Jersey	18	22	4
Pennsylvania	33	37	4

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From this table it appears that the increase in Massachusetts, where there was a special local cause at work, is not conspicuously greater than the increase in three of the five adjacent states, New Hampshire, Vermont and Connecticut, where no local cause is alleged. On the basis of these figures it seems to me impossible to maintain that the increase in Massachusetts was certainly or even very probably due to the local cause, unless we are able to discover what general influence caused the increase in the other states, and to show that this was not present or worked less powerfully in Massachusetts. If any quantitative estimate of the influence of the change of law in Massachusetts is to be derived from the figures, it may perhaps be done most fairly by the following method. The other five states of New England have together a population about equal to that of Massachusetts, and exhibit a general similarity to that state in social and economic conditions. Comparing them as a unit with Massachusetts for the two years under consideration, we find that they showed an increase of 25 in their average divorce rate, while that of Massachusetts increased 32. This excess of seven may be a rough approximate indication of the increase in Massachusetts due to the local cause.

May the amount of interstate migration for the purpose of securing divorce be approximately estimated? One of the main services that statistics can render to social science is to make possible a quantitative measurement of facts that without statistics can be only qualitatively distinguished. This must be my excuse for suggesting for the quantitative determination of the current of interstate migration to secure divorce, a method which is admitted to be imperfect and to give only roughly approximate results, but which is believed to be correct in theory and the best method possible with our limited data. Only two illustrations will be given, since these will suffice to illustrate the method, and that is all that is here desired.

It is often said that natives of New York, where the law is strict, resort to Rhode Island to obtain divorces.[1] In

[1] "Our statute . . . is so much more favorable to easy divorce that instances are not rare of persons coming to the state and remaining the time required to

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1870 there were 1,073,572 natives of New York State living in other parts of the Union, and of these 3932 were living in Rhode Island. That is, of all the natives of New York State who in 1870 were living beyond the limits of the state but within the limits of the country, .36 per cent resided in Rhode Island. The migration of the natives of New York to other parts of the Union may be conceived as a movement due to the attractive force exerted upon them by the advantages offered or believed to exist elsewhere; and the proportion of these persons going to any particular state or territory may be conceived to measure the attractive force of that state or territory in terms of the total force. The attractive force of Rhode Island for natives of New York in 1870 was, then, .36 per cent of the attractive force of the whole country outside of New York. In 1880 .54 per cent of the natives of New York residing without that state and within the country were living in Rhode Island, or in other words the attractive force of Rhode Island had risen to .54 per cent of that of the whole country. Now let us compare with these figures the number of persons going to Rhode Island from New York to obtain divorce. The number for each year is not given, but we are told [1] that in the twenty years ninety-seven divorces were granted in Rhode Island to parties who had been married in New York. We know also [2] that in the whole country outside of New York in the twenty years 9,205 divorces were granted to parties who had been married in New York State. That is, of all the divorces of New York marriages granted outside of that state, 1.05 per cent were granted in Rhode Island. Now if what we may call the current of legitimate migration from New York to Rhode Island was somewhere between .36 per cent and .54 per cent of the current from New York to the whole

obtain standing in our courts." — Governor's Message for 1883. Again: "I trust that our laws will be so amended that at least Rhode Island may no longer have the unenviable reputation it now has in respect to divorce and may no longer be a resort from neighboring states of parties who cannot be divorced by the laws of their own state." — Message for 1884.

[1] Commissioner Wright's Report, p. 194. [2] *Ibid.*, p. 196.

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country, and if the current of divorce migration to Rhode Island was about 1.05 per cent, the difference between these two may be held to express the amount of migration guided by the desire to obtain divorce. In a general way this analysis would indicate that from thirty-five to fifty of the ninety-seven cases in which Rhode Island divorces were granted to parties married in New York were cases of *bona fide* migration, in which divorce merely followed change of residence, without serving as a motive for it. While in any single instance like the foregoing such a course of reasoning may result in erroneous conclusions, I firmly believe that in the great majority of cases it would give an approximation to the truth and be far better than ignorance. It is an amplification and, as I think, an improvement of the method followed by Mr. Wright.

The application of this method may be made to another instance in which the data have been published. New York citizens are said to move to Pennsylvania in order to obtain divorce. How largely is this true? The attractive force of Pennsylvania on natives of New York, as measured by the number residing in the former state, was in 1870 8.2 per cent and in 1880 8.3 per cent of the force exerted by the whole country. On the average during the twenty years the attractive force of Pennsylvania on persons married in New York and obtaining a divorce elsewhere was 8.6 per cent. If the difference roughly expressed the migration for the purpose of obtaining a divorce, we may say that probably at least 700 of the 765 persons who were married in New York and divorced in Pennsylvania went there with the motives of ordinary immigrants and not to secure divorce.

Is it possible to trace a geographical distribution of divorce? In the population bulletins of the United States census the country is divided into five groups. The lines of separation are partly geographical and partly social and economic. Two lines are geographical, following approximately the two great mountain systems and dividing the country into an eastern, a central and a western group of states. The third line is social

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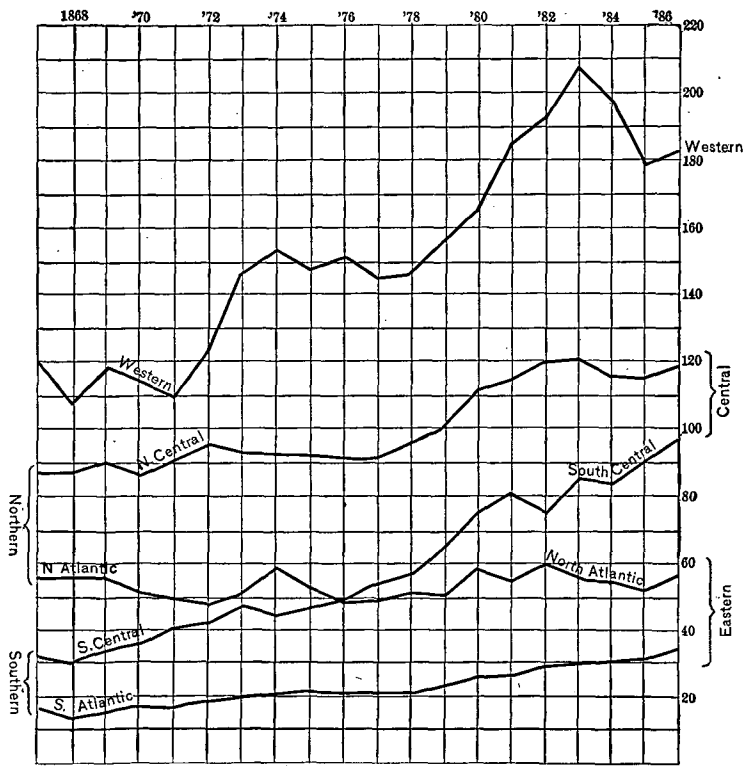
and economic, marking the difference between the former slave states and the free states. Each of the five groups of states thus formed, the north Atlantic, the south Atlantic, the north central, the south central and the western, is treated for many purposes as a whole and as such compared with the others. This method may be profitably employed in studying the divorce statistics. Accordingly I have estimated the population of each group, found the number of divorces granted in it for each of the twenty years, and computed the average divorce rate. The result is most clearly set forth in the following diagram.

DIVORCE RATES IN GROUPS OF STATES.



From this diagram it will be seen that the states from Delaware to Florida have uniformly had the lowest divorce rate in the country. At the start the second group in freedom

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from divorce was the southern states of the Mississippi valley. But the rate in that group has increased very rapidly, passing the north Atlantic group in 1876 and rapidly gaining on the north central, while for the last two years shown its rate was higher than that for the country as a whole.[1]

The north Atlantic group of states, from Maine to Pennsylvania inclusive, shows no increase of divorce rate in the twenty years; in other words the growth of divorce has just kept pace with the growth of population. If we divide this region into two groups, we find that in New England the divorce rate has slightly decreased in twenty years, while in New York, New Jersey and Pennsylvania as a whole it has slightly increased, the two offsetting each other.

Perhaps the most striking fact illustrated by the diagram is the high divorce rate and its rapid increase in the western group of states. At the beginning of the period the two southern groups were most free from divorce, then came the two northern groups, while the western group had the highest rate; but for the last eleven years the two eastern groups were most free from divorce, then came the two central groups and finally the western group. Disregarding for a moment the western group, we may say that for the period 1867–75 inclusive the difference between south and north was greater than that between east and center; but for the period 1876–86 inclusive the reverse was true, and the average difference between east and center was greater than the average difference between south and north. In the single matter of divorce rate the differences between south and north have been dwindling since the war, while the differences between east, center and west have been very rapidly increasing. Perhaps this change may be most clearly brought before the eye by combining the four groups east of the Rocky Mountains, first into two groups of southern and northern states and then into two groups of eastern and western states, for the first and the last years of the period, marking the increase in each case and the differences between south and

[1] Compare diagram, p. 79.

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north and between east and west at the beginning and end of the period.

Comparison of Divorce Rates.

	Southern States.	Northern States.	Difference.
1867	24	71	47
1886	68	92	24
Increase	44	21	

	Eastern States.	Central States.	Difference.
1867	43	65	22
1886	49	113	64
Increase	6	48	

It thus appears that the difference between south and north has decreased nearly one-half in twenty years, *i.e.* from 47 to 24, while the difference between the eastern and the central states has nearly trebled, from 22 to 64. Or if we look at the changes in the rate rather than at the differences, the increase in the south has been more than twice as rapid as in the north, and that in the central states no less than eight times as rapid as in the eastern.

A general conclusion to be drawn from this is that since the war the conditions of family life in southern and northern states, so far as they find expression in the divorce rate, have been growing more similar, while the conditions at the east and at the west have been growing more diverse; in other words, that in this respect the *ante bellum* divergence between north and south has been changing into a divergence between east and west.

Can any cause be suggested for this growing difference between the divorce rates of east and west? It may be worth while to state my own hypothesis. All over the civilized world we find two great currents of migration in progress, one from the rural districts to the cities and the other from long settled districts to newly opened territory. Now it is a general fact that the divorce rate is higher where either one of these currents stops, than at its source. Thus in Europe the city divorce rate is from three to five times that of the surrounding

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country, and in the United States about 95 per cent of the cases studied show the city rate to be likewise higher. So, too, in the Australian colonies, settled almost entirely from Great Britain and Ireland, and governed in such matters by English law, the divorce rate is several times as high as it is in the mother country. Each of these two streams of migration seems to involve a process of natural selection whereby the most energetic and self-reliant, and also the most discontented, dissatisfied and even criminal classes are sifted out and drawn off to the new homes. Among these the proportion of persons desiring divorce would be much greater than among those remaining behind. The prevalence of divorce in our far western states would thus be comparable to the frequent cases of lynch law in that region, both being natural though lamentable expressions of the large proportion of lawless elements in those states.

WALTER F. WILLCOX.

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THE INFLUENCE OF MACHINERY UPON EMPLOYMENT.

IN discussing the influence of machinery upon demand for labor we must distinguish its effects upon (1) the number of workers employed; (2) the regularity of employment; (3) the skill, duration, intensity and other qualities of labor.

I. *Upon the Number of Workers.*

The motive which induces capitalist employers to introduce into an industry machinery which shall either save labor by doing work which labor did before, or assist labor by making it more efficient, is a desire to reduce the expenses of production. Looked at from the standpoint of a given quantity of production, a new machine always displaces and throws out of employment a certain amount of labor, assuming that the labor of producing the new machines and of working them is paid at no lower rate of remuneration than the labor which is displaced. What is meant, then, by the statement so frequently made, that machinery gives more employment than it takes away — that its wider and ultimate effect is not to diminish the demand for labor? If we set against the displaced labor in a given business the labor of producing, maintaining and working the new machines, there must be still a net diminution in employment of labor; for otherwise no economy would be effected. This is of course beyond dispute. But, it is maintained, the economy afforded by labor-saving machinery in the expenses of production will, through competition of producers, be reflected in a lower scale of prices, and the fall of prices will stimulate consumption. When we add together the labor spent in producing the machinery to assist the enlarged production, the labor spent in maintenance and working of the same, and the labor of conveying and distributing the enlarged production, it will be

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found that more labor is required under the new than under the old conditions of industry. So runs the argument.

If for convenience we omit all consideration of the probability that the economy in production will swell profits instead of reducing prices, the value of the argument evidently turns upon the effect of a fall of price in stimulating increased consumption. Now the problem how far a given fall in price will stimulate increased consumption is shown by Professor Marshall, in his interesting treatment of "flexibility of demand,"[1] to involve extremely intricate knowledge of the circumstances of each case and refined calculations of human motives. If we apply a similarly graduated fall of prices to two different classes of goods, we shall observe a widely different effect in the stimulation of consumption. A reduction of fifty per cent in the price of one class of manufactured goods may treble or quadruple the consumption, while the same reduction in another class may increase the consumption by only twenty per cent. In the former case it is probable that the ultimate effect of the machinery which has produced the fall in expenses of production and in prices will be a considerable increase in the aggregate demand for labor, while in the latter case there will be a net displacement. It is therefore impossible to argue *a priori* that the ultimate effect of machinery must be an increased demand for labor, and that the labor displaced by machinery will be directly or indirectly absorbed in forwarding the increased production caused by machinery.

Moreover the industrial history of a country like England can furnish no valuable data for a wider judgment of the case. The enormous expansion of production induced by the application of machinery in certain branches of textile industry during the first half of this century indisputably led to an increased demand for English labor in industries directly or indirectly connected with textile production. But in the first place this cannot be regarded as a normal result of a fall of prices due to textile machinery, but is largely attributable to an expansion in the area of consumption — the establishment

[1] Principles of Economics, bk. iii., ch. iv.

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of vast new markets — in which greater efficiency and cheapness of means of transport played the most considerable part. Secondly, assuming that the more pressing needs of the vast body of consumers are already reached and satisfied by machine-produced textile goods, we are not at liberty to conjecture that any further cheapening of goods owing to improved machinery will have a correspondent effect upon consumption and the demand for labor. If England had been a self-contained country, manufacturing only for her own market, the result of machinery applied to textile industries would undoubtedly have been a considerable net displacement of textile labor, making all allowance for growth of population and increased domestic consumption of textile fabrics. The expansion of English production under the rapid development of machinery in the nineteenth century cannot be taken as a measure of the normal effects of the application of machinery.

What direct evidence we have of the effect of machinery upon demand for labor is very significant. Mr. Booth, in his *Occupations of the People*, presents an analysis of the census returns showing the percentages of the population engaged in various employments at decennial points from 1841 to 1881. If we turn to manufactures, upon which, together with transport, machinery exercises the most direct influence, we find that the aggregate of manufactures shows a considerable increase in demand for labor up to 1861, that is to say, in the time when English wares still kept the lead they had obtained in the world-market, but that since 1861 there is a considerable decline in the percentage of the population employed in manufactures. The percentages run as follows:

1841 . . .	27.1
1851 . . .	32.7
1861 . . .	33.0
1871 . . .	31.6
1881 . . .	30.7

If we take the staple manufactures, employing the largest number of workers, we shall find that for the most part they

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show a rising demand for labor up to 1861, a stationary or falling demand after that date. The foundational industries — machinery and tools, ship-building, metal-working — whose demand for labor during the period 1841 to 1861 increased by leaps and bounds, still show a slightly increased proportion of employment, partly due to the rise since 1861 of a large export trade in machinery. Fuel, gas, chemicals and other general subsidiary trades offer a steady rise in proportionate employment. The textile and dyeing industries, on the other hand, showing an increased proportionate employment up to 1851, by which time the weaving industry was taken over by machinery, present a continuous and startling decrease in the proportion of employment since that year. A considerably smaller proportion of workers are employed in these trades than were employed in 1841. The dress-making industries show the same result, a continuous rapid decline of employment since 1851. The following are the percentages:[1]

	Textile and Dyeing.	Dress.
1841 . . .	9.1	7.8
1851 . . .	11.1	10.3
1861 . . .	10.2	9.8
1871 . . .	9.3	8.5
1881 . . .	8.2	8.1

This failure of demand for labor to keep pace in its growth with the growth of production in the main branches of the spinning and weaving industries is emphasized by Mr. Ellison. Comparing 1850 with 1878, he says:

> In spinning mills there is an increase of about 189 per cent in spindles, but only 63 per cent in hands employed; and in weaving mills an increase of 360 per cent in looms, but only 253 per cent in operatives. This, of course, shows that the machinery has become more and more automatic or self-regulating, thus requiring the attendance of a relatively smaller number of workers.[2]

When all the subsidiary branches of textile industry are added, the results point still more conclusively in the same direction.

[1] Booth, Occupations of the People, pp. 68, 69.
[2] T. Ellison, Cotton Trade of Great Britain, p. 74.

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	No. of Spindles.	No. of Looms.	No. of Operatives.
1850 . . .	20,977,817	249,627	330,924
1878 . . .	44,206,690	514,911	482,903

The more recent statistics of Mr. Booth show that the relative diminution of employment in the textile industries has passed into an absolute diminution. The total number of operatives in textile and dyeing industries was :

1851 . . .	346,200
1861 . . .	462,400
1871 . . .	414,500
1881 . . .	396,400[1]

The significance of these figures in relation to the demand for labor receives further emphasis when the large and rapid displacement of male by female labor is taken into account. To this I refer later.

The branches of manufacture which show a large increase in the proportionate employment they gave in 1881, as compared with 1861, are printing and bookbinding, wood furniture and carriages, fuel, gas, chemicals and unspecified trades (chiefly connected with machinery). Machinery and tools, metals and ship-building, among the larger industries, show a small proportionate increase of employment.

From these facts two deductions may be made bearing upon the effects of machinery. First, so far as the aggregate of manufactures is concerned, the net result of the increased use of machinery has not been to offer an increased demand for labor keeping pace with the growth of the working population. Second, an increasing proportion of the manufacturing population is employed in the smaller industries, which are either subsidiary to the large industries or are engaged in providing miscellaneous comforts and luxuries.

When we turn from manufactures to other employments, we perceive that while manufactures, together with mining and building, employ about the same proportion of the working population as in 1851, agriculture offers a rapidly diminishing employment, descending from 20.9 per cent in 1851 to 11.5

[1] Occupations of the People, p. 10.

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per cent in 1881. On the other hand, the proportion of the workers engaged in transport trades, in dealing and in industrial service has risen very largely.

	Transport.	Dealing.	Industrial Service.
1841 . . .	2.2	5.3	5.4
1851 . . .	4.1	6.5	4.5
1861 . . .	4.6	7.1	4.0
1871 . . .	4.9	7.8	6.0
1881 . . .	5.6	7.8	6.7

To this we may add a large increase in the proportionate supply of public and professional service, rising from 3.6 per cent in 1841 to 5.6 in 1881.

When we look at these figures there can be no question that an indirect result of the increased production due to the application of machinery has been increased employment in distributing industries. It should, however, be clearly recognized that the direct effect of machinery upon these industries also is to diminish the proportionate employment of labor. A comparison of the two chief branches of the transport trade yields the same results. Machinery occupies a very different place in the railway from that which it holds in the steamship. The engine only indirectly determines and regulates the work of the majority of railway workers. Most of them are not tenders of machinery. Engineer, stoker and guard are alone in close, direct association with the machine. To them must be added those engaged in the workshops in construction and repair. Pointsmen and certain station officials come next in proximity to the machine; shunters and porters are also "tending machinery," though their work is more directly dominated by general business considerations. But are we to say that the army of plate-layers, navvies, *etc.*, engaged along the track are serving machinery instead of using tools? The work of ticket clerks and collectors is only governed by the locomotive in a very indirect way. Though the steam locomotive is the central factor in railway work, the bulk of the labor is skilled or unskilled work in remote relation to the machine. This explains why the growth of railway industry is not attended by

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a diminishing proportion of employment. On the contrary, we find that railway employment increases faster than mileage and railway capital. The following figures illustrate the movement between 1860 and 1890 in railways of the United Kingdom:

Year.	Mileage.	Capital (paid up).	Operatives.
1851 . . .	–	–	25,200
1861 . . .	10,865	£362,327,338	53,400
1871 . . .	15,376	552,661,551	84,900
1881 . . .	18,175	745,528,162	139,500

But when we turn to the shipping trade, where a much larger proportion of workers are directly engaged with machinery, and trace the effect upon employment of the application of steam, the result is very different:

	Sailing Vessels (tonnage).	Steamers (tonnage).	Men on Sailing Ships.	Men on Steamships.
1850 . .	3,396,359	168,474	142,730	8,700
1860 . .	4,204,360	454,327	145,487	26,105
1870 . .	4,577,855	1,112,934	147,207	48,755
1880 . .	3,851,045	2,723,488	108,668	84,304
1890 . .	2,907,405	5,037,666	84,008	129,366[1]

If we take the period 1870–1890, during which there is an absolute shrinkage of sailing tonnage, we find that this shrinkage is accompanied by a less than corresponding diminution in employment. On the other hand, the tonnage of steamships has increased nearly fourfold, but has brought an increase of employment which is not quite threefold. This comparison of railway and shipping illustrates the degree of dominion exercised by machinery in the respective branches of transport industry.

[1] The aggregate effect of the change upon the employment of seamen is shown by the following figures, in which the aggregate tonnage of sailing and steam vessels is given:

	Tonnage.	Men.
1850 . . .	3,564,833	151,430
1860 . . .	4,658,687	171,592
1870 . . .	5,690,789	195,962
1880 . . .	6,574,513	192,972
1890 . . .	7,945,071	213,374

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These facts and figures seem to support the following conclusions:

1. That along with the increased application of machinery to the textile and other staple manufactures there has been a decrease of employment relative to production.

2. That in the transport industries the increase of employment is in inverse proportion as machinery is introduced into the several branches as a dominating factor.

3. That the rapid diminution of agricultural employment is not compensated by any proportionate increase of manufacturing employment, but that the displaced agricultural labor finds employment in such branches of the transport and distributive trade as are less subject to machinery.

In the rough estimate of the effect of machinery upon employment, its influence upon English agriculture has been left untouched by reason of the inherent complexity of the forces which are operative. But it must not be forgotten that by far the most important factor in the decline of English agricultural employment is the transport machinery which has brought the produce of distant countries into direct competition with English agricultural produce.

So far, therefore, as the statistics of employments present a just register of the influence of machinery upon demand for labor, we are driven to conclude that the net influence of machinery is to diminish employment so far as those industries are concerned into which machinery directly enters, and to increase the demand in those industries which machinery affects but slightly or indirectly. If this is true of England, which, having the start in the development of the factory system, has to a larger extent than any other country specialized in the arts of manufacture, it is probable that the net effect of machinery upon the demand for labor throughout the industrial world has been to throw a larger proportion of the population into industries where machinery does not directly enter. This general conclusion, however, for want of exact statistical enquiries conducted upon a single basis, can only be accepted as probable.

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II. *Upon the Regularity of Employment.*

The influence of machinery upon regularity of employment has a twofold significance. It has a direct bearing upon the measurement of demand for labor, which must take into account not only the number of persons employed but the quantity of employment given to each. It has also a wider general effect upon the moral and industrial condition of the workers, and through this upon the efficiency of labor, which is attracting increased attention among students of industrial questions. The former consideration alone concerns us here. We have to distinguish: (1) the effects of the introduction of machinery as a disturbant of regularity of labor; (2) the normal effects of machine production upon regularity of labor.

1. The direct and first effect of the introduction of machinery is, as we have seen, to displace labor. The machinery causes a certain quantity of unemployment, apart from the consideration of its ultimate effect on the number of persons to whom employment is given. Professor Shield Nicholson finds two laws or tendencies which operate in reducing this disturbing influence of machinery. He holds (1) that a radical change made in the methods of production 'will be gradually and continuously adopted; (2) that these radical changes — these discontinuous leaps — tend to give place to advances by small increments of invention.[1]

History certainly shows that the fuller application of great inventions has been slow, though Professor Nicholson somewhat overestimates the mobility of labor and its ability to provide against impending changes. The story of the introduction of the power loom discloses terrible sufferings among the hand weavers of certain districts, in spite of the gradual manner in which the change was effected. The fact that along with the growth of the power loom the number of hand looms was long maintained, is evidence of the immobility of the hand weavers, who kept up an irregular and ill-paid work through ignorance and incapacity to adapt themselves to changed cir-

[1] J. S. Nicholson, Effects of Machinery on Wages, p. 33.

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cumstances.[1] In most of the cases where great distress has been caused, the directly operative influence has not been introduction of machinery but sudden change of fashion. This was the case with the crinoline-hoop makers of Yorkshire, the straw-plaiters of Bedfordshire, Bucks, Herts and Essex.[2] The suddenly executed freaks of protective tariffs seem likely to be a fruitful source of disturbance. So far as the displacement has been due to new applications of machinery, it is no doubt generally correct to say that sufficient warning is given to enable workers to check the flow of labor into such industries and to divert it into other industries which are growing in accordance with the new methods of production.

Mr. Nicholson's second law is, however, more speculative and less reliable in its action. It seems to imply some absolute limit to the number of great inventions. Radical changes are no doubt generally followed by smaller increments of invention; but we can have no guarantee that new radical changes quite as important as the earlier ones may not occur in the future. There are no assignable limits to the progress of mechanical invention, or to the rate at which that progress can be effected. If certain preliminary difficulties in the general application of electricity as a motor can be overcome, there is every reason to believe that, with the improved means of rapidly communicating knowledge we possess, our factory system may be reorganized and labor displaced far more rapidly than in the case of steam, and at a rate which might greatly exceed the capacity of labor to adjust itself to the new industrial conditions. At any rate we are not at liberty to take for granted that the mobility of labor must always keep pace with the application of new and labor-disturbing inventions. Since we are not able to assume that the market will be extended *pari passu* with the betterment in methods of production, it is evident that improvements in machinery must be reckoned as a normal cause of insecurity of employment. The loss of employment may be only "temporary," but as the life of a workingman is

[1] Babbage, Economy of Manufactures, p. 230.
[2] *Cf.* Thorold Rogers, Pol. Econ. (1869), pp. 78, 79.

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also temporary, such loss may as a disturbing factor in the working life have a considerable importance.

2. Whether machinery, apart from the changes due to its introduction, favors regularity or irregularity of employment, is a question to which I think a tolerably definite answer can be given. The structure of the individual factory, with its ever-growing quantity of expensive machinery, would seem at first sight to furnish a direct guarantee of regular employment, based upon the self-interest of the capitalist. Some of the "sweating" trades of London are said to be maintained by the economy which can be effected by employers who use no expensive plant or machinery, and who are able readily to increase or diminish the number of their employees so as to keep pace with the demands of some "season" trade, such as fur-pulling or artificial flowers. When the employer has charge of enormous quantities of fixed capital, his individual interest is strongly in favor of full and regular employment of labor. On this account, then, machinery would seem to favor regularity of employment. On the other hand Professor Nicholson has ample evidence in support of his statement that

> great fluctuations in price occur in those commodities which require for their production a large proportion of fixed capital. These fluctuations in prices are accompanied by corresponding fluctuations in wages and irregularity of employment.[1]

In a word, while it is the interest of each producer of machine-made goods to give regular employment, some wider industrial force compels him to irregularity. What is this force? It is uncontrolled machinery. In the several units of machine production, the individual factories or mills, we have admirable order and accurate adjustment of parts; in the aggregate of machine production, we have no organization, but a chaos of haphazard speculation. "Industry has not yet adapted itself to the changes in the environment produced by machinery." That is all.

But, it may be asked, how is machinery to blame for the fluctuation of prices and the correspondent irregularity of

[1] Effects of Machinery on Wages, p. 66.

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employment? Professor Nicholson has with admirable candor set on the one hand the orthodox economic theory, that, since ultimately commodities exchange for commodities, there can be no such thing as over-production; on the other hand, the universal belief of the business man that bad trade is due to over-production, and that general bad trade implies not merely the theoretic possibility, but the actual existence, of a condition which is properly described as general over-production. Business men see that all the markets are congested with goods which remain unsold, that all kinds of machinery are in excess, that owing to an increase of supply in relation to demand, prices are falling all round; and they are naturally not contented with the airy declaration of economists that over-production is impossible. Would it not be better for economists to recast their theory, so as to be in harmony with facts? Going a little behind the business view, might they not admit that under-consumption, the reluctance of those who hold the purchasing power to demand consumptive goods, is the true cause of the disease which figures on the surface as over-production? Under a monetary system of commerce, though commodities still exchange for commodities, it is an essential condition of that exchange that those who possess purchasing power shall be willing to use a sufficient proportion of it to demand consumptive goods. Otherwise the production of productive goods is stimulated unduly while the demand for consumptive goods is checked, — the condition which the business man rightly describes as over-supply of the material forms of capital. When production was slower, markets narrower, credit less developed, there was less danger of this big miscalculation, and the corrective forces of industry were more speedily effective. But modern machinery has enormously expanded the size of markets, the scale of competition, the complexity of demand, and no longer produces for a small local present demand, but for a large world future demand. Hence machinery is the direct material cause of these great fluctuations which bring, as their most evil consequence, irregularity of wages and employment.

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How far does this tend to right itself? Professor Nicholson believes that time will compel a better adjustment between machinery and its environment.

> The enormous development of steam communication and the spread of the telegraph over the whole globe have caused modern industry to develop from a gigantic star-fish, any of whose members might be destroyed without affecting the rest, into a μέγα ζῶον which is convulsed in agony by a slight injury in one part. A depression of trade is now felt as keenly in America and even in our colonies as it is here. Still, in the process of time, with the increase of organization and decrease of unsound speculation, this extension of the market must lead to greater stability of prices; but at present the disturbing forces often outweigh altogether the supposed principal elements.[1]

The organization of capital under the pressure of these forces is doubtless proceeding, and such organization, when it has proceeded far enough, will indisputably lead to a decrease of unsound speculation. But these steps in organization have been taken precisely in those industries which employ large quantities of fixed capital, and the admitted fact that the severest fluctuations take place in these industries is proof that the steadying influences of such organization have not yet had time to assert themselves to much purpose. The competition of larger and larger masses of organized capital seems to induce heavier speculation and larger fluctuations. Not until a whole species of capital is organized into some form or degree of "trust" is the steadying influence of organization able to predominate. But there is also another force which, in England at any rate, under the increased application of machinery, makes for an increase rather than a diminution of speculative production. It has been seen that the proportion of workers engaged in producing comforts and luxuries is growing, while the proportion of those producing the prime necessaries of life is declining. How far the operation of the law of diminishing returns will allow this tendency to proceed, we cannot here discuss. But statistics show that this is the present tendency

[1] *Op. cit.* p. 117.

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both in England and in the United States. Now the demand for comforts and luxuries is essentially more irregular and less amenable to commercial calculation than the demand for necessaries. The greatest economies of machine production are found in industries where the demand is largest, steadiest and most calculable. Hence the effect of machinery is to drive ever and ever larger numbers of workers from the less to the more unsteady industries — those which are most exposed to the influences of taste, caprice or changing income. Nor is this difficulty met by the admission that the comforts of one class or generation acquire the steadiness of necessaries as the standard of comfort rises. For the development of new comforts and luxuries, not less fluctuating, attends each rise in the standard of comfort. Nothing but a general change in morals, inducing a general increased regularity in methods of consumption, will diminish this tendency which makes for irregularity of employment.

On the whole it seems reasonable to conclude that the present net influence of machinery is towards an increased irregularity of employment, except in industries where (1) the demand for the commodities produced is regular and (2) supply is regulated by the organized action of those who control production.

Our reasoning from the ascertained tendencies of machinery inclines to the conclusion that, taking into consideration the two prime factors, namely, the number of those employed and the regularity of employment, machinery does not favor an increased steady demand for labor. It tends, apparently, to drive labor in three directions :

(1) To the invention, execution and maintenance of machinery to make machines, the labor of making machines being continually displaced by machines, and being thus driven to the production of machines further remote from the machines directly engaged in producing consumptive goods. The labor thus engaged must be in an ever diminishing ratio to a given quantity of consumption. Nothing but a great increase in the quantity of consumption or the opening of new varieties of

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consumption can maintain or increase the demand for labor in these machine-making industries.

(2) To continual specialization and refinement in the arts of distribution. The multiplication of merchants, middlemen and retailers, which, in spite of the tendency to centralization in distributive work, is so marked a feature of English industry during the last forty years, is directly traceable to the influence of machinery.[1]

(3) To the supply of new wants, which are either (*a*) wholly non-material, *i.e.*, intellectual, artistic or other personal services, (*b*) partly non-material, *e.g.*, works of art chiefly the embodiment of individual taste or spontaneous energy, or (*c*) too irregular or not sufficiently extended to admit the application of machines. The learned professions, art, science and literature, and those branches of labor engaged in producing luxurious materials or services, furnish a steadily increasing employment. So long, then, as a community grows in numbers, so long as individuals desire to satisfy more fully their present wants, and combine to develop new wants forming a higher or more intricate standard of comfort, there is no evidence to show that machinery has an effect in decreasing the aggregate demand for labor, but there is strong reason to believe that it tends to make employment more unstable and precarious of tenure and more fluctuating in its market value.

III. *Upon the Quality of Labor.*

In considering the influence of machinery upon the quality of labor, *i.e.* skill, duration, intensity, *etc.*, we have first to meet two questions: What are the qualities in which machinery surpasses human labor? What are the kinds of work in which machinery displaces man? Now, since the whole of industrial work consists in moving matter, the advantage of machinery must consist in the production and disposi-

[1] The following are the percentages of the employed engaged in dealing and industrial service:

	1841	1851	1861	1871	1881
Dealing	4.4	5.6	6.5	7.1	7.5
Industrial Service .	4.3	3.8	3.9	4.5	6.2

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tion of motive power. The general economies of machinery are two: (1) The increased quantity of motive force it can apply to industry; (2) Greater exactitude in the regular application of motive force (*a*) in time — the exact repetition of the same acts at regulated intervals, or greater evenness in continuity, (*b*) in place — exact repetition of the same movements in space. All the advantages imputed to machinery in the economy of human time, the utilization of waste material, the display of concentrated force or the delicacy of manipulation are derivable from these two general economies. Hence it follows that wherever the efficiency of labor power depends chiefly upon the output of muscular force in motive power, or precision in the regulation of muscular force, machinery will tend to displace human labor. Assuming, therefore, that displaced labor finds other employment, it will be transferred to work where machinery has not the same advantage over human labor, that is to say, to work where the muscular strain or the need for regularity of movement is less. At first sight it will thus seem to follow that every displacement of labor by machinery will bring an elevation in the quality of labor, that is, will increase the proportion of labor in employments which tax the muscles less and are less monotonous. This is in the main the conclusion towards which Professor Marshall inclines.[1]

So far as each several industry is concerned, it has been shown that the introduction of machinery signifies a net reduction of employment, unless the development of trade is largely extended by the diminution in expenses of production. It cannot be assumed as a matter of course that the labor displaced by the introduction of automatic folders in printing will be employed in less automatic work connected with printing. It may be diverted from muscular monotony in printing to the less muscular monotony of providing some new species of luxury, the demand for which is not yet sufficiently large or regular to justify the application of labor-saving machinery. But even assuming that the whole or a large part of the displaced labor

[1] Principles of Economics, (2d ed.), pp. 314, 322.

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is engaged in work which is proved to have been less muscular or less automatic by the fact that it is not yet undertaken by machinery, it does not necessarily follow that there is a diminution in the aggregate of physical energy given out, or in the total "monotony" of labor.

One direct result of the application of an increased proportion of labor-power to the kinds of work which are less "muscular" and less "automatic" in character, will be a tendency towards greater division of labor and more specialization in these employments. Now the economic advantages of increased specialization can only be obtained by increased automatic action. Thus the routine or automatic character which constituted the monotony of the work in which machinery displaced these workers, will now be imparted to the higher grades of labor in which they are employed, and these in their turn will be advanced towards a condition which will render them open to a new invasion of machinery.

Nor is it shown that the introduction of machine production tends to diminish the physical strain upon the worker. As regards those workers who pass from ordinary manual work to the tending of machinery, there is a good deal of evidence to show that their new work taxes their physical vigor quite as severely as the old work. Professor Shield Nicholson quotes the following striking statement from the *Cotton Factory Times:*

> It is quite a common occurrence to hear young men who are on the best side of thirty years of age declare they are so worked up with the long mules, coarse counts, quick speeds and inferior material, that they are fit for nothing at night only going to bed and taking as much rest as circumstances will allow. There are few people who will credit such statements; nevertheless they are true, and can be verified any day in the great majority of the mills in the spinning districts.

Professor Nicholson thus sums up his evidence upon this head:

> It is clear that the use of machines, though apparently labor-saving, often leads to an increase in the *quantity of labor;* nega-

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tively by not developing the mind, positively by doing harm to the body.[1]

When any muscular or physical effort is required, it is pretty evident that an increased duration or a greater continuity in the slighter effort may tax the body quite as severely as the less frequent application of a much greater bodily force. There can be no question that in a competitive industrial society, there exists a tendency to compensate for any saving of muscular or other physical effort afforded by the intervention of machinery, in two ways: first, by "forcing the pace"—compelling the worker to tend more and more machines, and to increase the strain, if not upon the muscles, then upon the nerves; secondly, by extending the hours of labor. A lighter form of labor spread over an increased period of time may of course amount to an increased tax upon the vital energy. It is not disputed that a general result of the factory system has been to increase the average length of the working day, if we take under our survey the whole area of machine production in modern industrial communities. This is only in part attributable to the fact that workers can be induced to sell the same daily output of energy as before, while a longer time is required for its expenditure. Another influence of equal potency is the economy of machinery effected by longer hours.

These two forces operating together have lengthened the average working day. Certain subsidiary influences also deserve notice, in particular the introduction of cheap illuminants. Before the cheap provision of gas, the working time of those engaged in retail trade was limited by daylight. Now a part of nature's rest is annexed to the working day. There are of course powerful social forces working for the curtailment of the working day, and these very forces are, as we shall observe, powerfully though indirectly aided by ma-

[1] Page 82. Babbage, in laying stress upon one of the "advantages" of machinery, makes an ingenuous admission of this "forcing" power of the machine: "One of the most singular advantages we derive from machinery is in the check which it affords against the inattention, the idleness or the knavery of human agents."—Economy of Manufactures, p. 39.

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chinery. But the direct economic influence of machinery is in favor of an extended working day. The full significance of this is not confined to the fact that a large proportion of the worker's life is consumed in the growing monotony of production. The curtailment of the portion of time in which he figures as consumer must be set against any increase in real wages or power of consumption which has come to him from the increase of productive power under machinery.[1] So far therefore as the age of machinery has converted handicraftsmen into tenders of machinery, it seems as if Mill were almost justified in his somewhat rhetorical verdict: "It is questionable if all the mechanical inventions yet made have lightened the day's toil of any human being."

Now to come to the question of "monotony." Is the net tendency of machinery to make labor more or less monotonous, to educate the worker or to brutalize him? Does labor become more intellectual under the machine? Professor Marshall, who has thoughtfully discussed this question, inclines upon the whole in favor of machinery. It takes away manual skill, but it substitutes higher or more intellectual forms of skill.[2] "The more delicate the machine's power, the greater is the judgment and carefulness which is called for from those who see after it."[3] Since machinery is daily becoming more and more delicate, the tending of machinery would become more and more intellectual. The judgment of Mr. Cooke Taylor, in the conclusion of his admirable work, *The Modern Factory System*, is the same: "If man were merely an intellectual animal, even only a moral and intellectual one, it could scarcely be denied, it seems to us, that the results of the factory system have been thus far elevating."[4] Mr. Taylor indeed admits of the operative population that "they have deteriorated artistically; but art is a matter of faculty, of perception, of aptitude, rather than of intellect." This curious and significant admission deserves more attention than I can here bestow upon it.

[1] Patten, The Theory of Dynamic Economics, ch. xi.

[2] Marshall, *op. cit.*, p. 315.

[3] *Ibid.*, p. 316.

[4] Page 435.

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The question of the net intellectual effects of machinery is not one which admits of positive answer. It would be open to one to admit with Mr. Taylor that the operatives were growing more intellectual, and that their contact with machinery exercises certain educative influences, but to deny that the direct results of machinery upon the workers were favorable to a wide cultivation of intellectual powers, as compared with various forms of freer and less specialized manual labor. The intellectualization of the town operatives (assuming the process to be taking place) may be attributable to the thousand and one other influences of town life rather than to machinery, save indirectly so far as the modern industrial center is itself the creation of machinery. It is not, I think, possible at present to offer any clear or definite judgment. But the following distinctions seem to have some weight in forming our opinion.

The growth of machinery has acted as an enormous stimulus to the study of natural laws. A larger and larger proportion of human effort is absorbed in processes of invention, in the manipulation of commerce on an increasing scale of magnitude and complexity, and in such management of machinery and men as requires and educates high intellectual faculties of observation, judgment and speculative imagination. Of that portion of workers who may be said, within limits, to control machinery, there can be no question that the total effect of machinery has been highly educative. Some measure of these educative influences descends even to the "hand" who tends some minute portion of machinery.

So also allowance should be made for the skilled work of making and repairing machinery. The engineer's shop is becoming every year a more and more important factor in the equipment of a factory or mill. But though "breakdowns" are essentially erratic and must always afford scope for ingenuity in their repair, even in the engineer's shop there is the same tendency for machinery to undertake all work of repair which can be brought under routine. So the skilled work in making and repairing machinery is continually being reduced

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to a minimum, and cannot be regarded, as Professor Nicholson is disposed to regard it, as a factor of growing importance in connection with machine production. The more machinery is used, the more skilled work of making and repairing will be required, it might seem. But the rapidity with which machinery is invading these very functions turns the scale in the opposite direction, at any rate so far as the making of machinery is concerned. Statistics relating to the number of those engaged in making machinery and tools, show that the proportion they bear to the whole working population is an increasing one; but the rate of this increase is by no means proportionate to the rate of increase in the use of machinery. While the percentage of those engaged in making machinery and tools rises from 1.7 in 1861 to 1.8 in 1871 and 1.9 in 1881, the approximate increase of steam power applied to fixed machinery and locomotives shows a much more rapid rise, — from 2,100,000 horse power in 1860 to 3,040,000 in 1870 and 5,200,000 in 1880.[1] Moreover, an increased proportion of machinery production is for export trade, so that a large quantity of the labor employed in those industries is not required to sustain the supply of machinery used in English work. In repairs of machinery, the economy effected by the system of interchangeable parts is one of growing magnitude, and tends likewise to minimize the skilled labor of repair.[2]

Finally it should be borne in mind that in several large industries where machinery fills a prominent place, the bulk of the labor is not directly governed by the machine. This fact has already received attention in relation to railway workers. The character of the machine certainly impresses itself upon these in different degrees, but in most cases there is a large amount of detailed freedom of action and scope for individual skill and activity.

Making allowance, then, for the intelligence and skill used in the invention, application, management and repair of machinery, what are we to say of the labor of him who, under the

[1] Mulhall, Dictionary of Statistics, p. 545.

[2] *Cf.* Marshall, Princ. of Econ., vol. i. p. 315.

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minute subdivision enforced by machinery, is obliged to spend his working life in tending some small portion of a single machine, the whole work of which is to push some single commodity a single step along the journey from raw material to consumptive good?

His work, it is urged, calls for "judgment and carefulness." So did his work in manual labor before the machine took it over. His "judgment and carefulness" are now confined within narrower limits than before. The responsibility of the individual worker is greater, precisely because it is narrowed down so as to be related to and dependent on a number of other operatives in other parts of the same machine with whom he has no direct personal concern. Such realized responsibility is an element in education, moral and intellectual. But this responsibility is a direct result of the minute subdivision. It is, I think, questionable whether the vast majority of machine workers get any considerable education from the fact that the machine in conjunction with which they work represents a huge embodiment of the delicate skill and invention of many thousands of active minds, though some value may be accorded to Mr. Cooke Taylor's contention that "the mere exhibition of the skill displayed and the magnitude of the operations performed in factories can scarcely fail of some educational effect."[1] Professor Shield Nicholson expresses himself more dubiously on the educational value of the machine: "Machinery of itself does not tend to develop the mind as the sea and mountains do, but still it does not necessarily involve deterioration of general mental ability."

The work of tending machinery is not of course to be regarded as absolutely automatic. To a certain limited extent the "tender" of machinery rules as well as serves the machine: in seeing that his portion of the machine works in accurate adjustment to the rest, the qualities of care, judgment and responsibility are evoked. A great part of modern inventiveness, however, is engaged in devising automatic checks and indicators for the sake of dispensing with human skill and

[1] The Modern Factory System, p. 435.

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reducing the spontaneous or thoughtful elements of tending machinery to a minimum. When this minimum is reached the highly paid skilled workman gives place to the low-skilled woman or child, and eventually the process passes over entirely into the hands of machinery. So long, however, as human labor continues to co-operate with machinery, certain elements of thought and spontaneity adhere to it. These must be taken into account in any estimate of the net educative influence of machinery. But though these mental qualities must not be overlooked, exaggerated importance should not be attached to them. The layman is often apt to esteem too highly the nature of skilled specialist work. A locomotive superintendent of a railway was recently questioned as to the quality of engine-driving. "After twenty years experience he declared emphatically that the very best engine-drivers were those who were most mechanical and unintelligent in their work, who cared least about the internal mechanism of the engine."[1] Yet engine-driving is far less mechanical and monotonous than ordinary tending of machinery.

So far as the man follows the machine and has his work determined for him by mechanical necessity, the educative pressure of the latter force must be predominant. Machinery like everything else can only teach what it practices. Order, exactitude, persistence, conformity to unbending law, — these are the lessons which must emanate from the machine. They have an important place as elements in the formation of intellectual and moral character. But of themselves they contribute a one-sided and very imperfect education. Machinery can exactly reproduce; it can, therefore, teach the lesson of exact reproduction, an education of quantitative measurements. The defect of machinery, from the educative point of view, is its absolute conservatism. The law of machinery is a law of statical order, that everything conforms to a pattern, that present actions precisely resemble past and future actions. Now the law of human life is dynamic, requiring order not as valuable in itself, but as the condition of progress. The law of human

[1] The Social Horizon, p. 22.

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life is that no experience, no thought or feeling is an exact copy of any other. Therefore, if you confine a man to expending his energy in trying to conform exactly to the movements of a machine, you teach him to abrogate the very principle of life. Variety is of the essence of life, and machinery is the enemy of variety. This is no argument against the educative uses of machinery, but only against the exaggeration of these uses. If a workman expend a reasonable portion of his energy in following the movements of a machine, he may gain a considerable educational value; but he must also have both time and energy left to cultivate the spontaneous and progressive arts of life.

It is often urged that the tendency of machinery is not merely to render monotonous the activity of the individual worker, but to reduce the individual differences in workers. This criticism finds expression in the saying: "All men are equal before the machine." So far as machinery actually shifts upon natural forces work which otherwise would tax the muscular energy, it undoubtedly tends to put upon a level workers of different muscular capacity. Moreover, by taking over work which requires great precision of movement, there is a sense in which it is true that machinery tends to reduce the workers to a common level of skill, or even of un-skill.

> Whenever a process requires peculiar dexterity and steadiness of hand, it is withdrawn as soon as possible from the cunning workman, who is prone to irregularities of many kinds, and it is placed in charge of a peculiar mechanism, so self-regulating that a child can superintend it.[1]

That this is not true of the most highly skilled or qualitative work, must be conceded, but it applies with great force to the bulk of skilled labor. By the aid of machinery, *i.e.*, of the condensed embodiment of the inventor's skill, the clumsy or weak worker is rendered capable of assisting the nicest movements on a closer equality with the more skilled worker. Of course piece work, as practised in textile and hardware industries, shows that the most complete machinery has not

[1] Ure, Philosophy of Manufactures, ch. i., p. 19.

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nearly abolished the individual differences between one worker and another. But assuming that the difference in recorded piece wages accurately represents difference in skill or capacity of work,— which is not quite the case,— it seems evident that there is less variation in capacity among machine-workers than among workers engaged in employments where the work is more muscular, or is conducted by human skill with simpler implements. The difference in productive capacity between an English and a Hindoo navvy is considerably greater than the difference between a Lancashire mill-operative and an operative in an equally well-equipped and organized Bombay mill.

But this is by no means all that is signified by the "equality of workers before the machine." It is the adaptibility of the machine to the weaker muscles and intelligence of women and children that is perhaps the most important factor. The machine in its development tends to give less and less prominence to muscle and high individual skill in the mass of workers, more and more to certain qualities of body and mind which not only differ less widely in different men, but in which women and children are more nearly on a level with men. The tendency of machine industry to displace male by female labor is placed beyond all question by the statistics of occupations in England, which show since 1851 a regular and considerable rise in the proportion of women to men workers in almost all branches of manufacture.[1] Legal restrictions, and in the more civilized communities, the growth of a healthy public opinion, prevent the economic force from being operative to the same degree so far as children are concerned.

[1] The following statistics, drawn from Booth's Occupations of the People, relate to the displacement of male by female labor:

Textiles and dyeing: From 1851 to 1881 males show continuous decline in absolute numbers, females continuous increase.

	Males.	Females.
1851 . . .	462,400	472,100
1861 . . .	439,700	526,500
1871 . . .	414,500	555,500
1881 . . .	396,400	566,200

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Those very qualities of care and judgment, of detailed attention, of regularity and patience which, as we saw, are characteristic of machine work, are common human qualities, in the sense that they are within the capacity of all and that even in the degree of their possession and practice there is less difference between the most highly trained mechanic and the raw "half-timer" than in the possession and practice of such powers as machinery has superseded. It must, I think, be recognized that machinery does exercise a certain equalizing

The figures of dress industries are equally significant:

	Males.	Females.
1851 . . .	397,500	471,200
1861 . . .	378,600	550,900
1871 . . .	363,300	552,700
1881 . . .	344,700	609,300

These figures show a quickening of the pace of displacement in the last decennial period. If we take other manufacturing industries in which women are engaged in considerable numbers, a similar movement is traceable in all: the relative rate of increase in the employment of women exceeds that of men, even where the numbers of the latter do not absolutely decline. Such industries are wood-furniture and carriages; printing and bookbinding; feathers, leather, glues; paper, floorcloths and waterpoof; earthenware, machinery and tools; food, drink and smoking. In many other industries in which no women or very few were occupied in 1841, women have effected an entrance and are growing in numbers more rapidly than men. Such are fuel, gas, chemicals; operative building; quarrying and bricklaying; watches, instruments and toys; navigation and docks. They have even made an entry in road-making and ship-building, salt and water-works and railways. The only group of machine industries in which their numbers have not increased more rapidly than those of men since 1851 is the metal industries. Even here, however, they nearly hold their own.

It appears, then,

1. That the tendency of modern industry is to increase the quantity of employment given to women as compared with that given to men. (As against the numerical increase of employment, consideration should be taken of the greater irregularity of woman's work and the fact that a larger number of women returned as industrial workers give only a portion of their day to industry.)

2. That this tendency is chiefly confined to manufacturing industries. (The increase of female employment in dealing and industrial service is not larger than the increase of male employment between 1851 and 1881.)

3. In the manufacturing industries, omitting a few essentially male industries where the muscles are even under machinery severely taxed, the increased rate of employment is greatest in those industries where machinery has been most highly developed, as for example, the textile industries and dress.

It is thus proved that machinery favors the employment of female rather than male labor.

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effect by assigning a larger and larger relative importance to those faculties which are specific, as compared with those which are individual. The antagonism between machinery and art in this respect is fundamental and irreconcilable. So long and so far as the public continue to sink their individual differences as consumers and employ their expanding powers of purchase in demanding increased quantities of the same kinds of consumptive goods, machinery, with its economic faculty of exact, cheap and rapid reproduction, will gain an increasing control over the processes of production. When the public becomes more individualistic in its consumption, in demanding greater variety and adaptability to individual taste, instead of immense quantity, this new character of consumption will reduce the advantages enjoyed by machinery, and will operate as an increased demand for art in the sense of individual effort of production.

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LEVASSEUR'S LA POPULATION FRANÇAISE.[1]

THE population of France offers one of the best and most interesting fields for the study of demography, or, as we would say in English, vital statistics. It is a large population, homogeneous, increasing at a slow rate — in fact, now almost stationary — not disturbed by immigration or emigration to any great extent, occupying a fully settled territory which, except for the gain of Savoy-Nice and for the loss of Alsace-Lorraine, is about the same to-day that it was in 1815. While France has shared fully in the industrial and intellectual progress of the nineteenth century, yet her progress has been normal and gradual, and outside of politics there have been no cataclysms or sudden revolutions. At the same time, France has had her share of those great social blows — wars, pestilences and famines — than which (like death) nothing is more certain nor the time and manner thereof more uncertain, and which are so important to demographic science as showing the power of external influences over primary social functions like births, deaths and marriages. These considerations would seem to make the French population an almost ideal example of the static condition, stationary but not stagnant, fixed without being stereotyped, where we can successfully observe the normal laws of population. In this respect France shows a great contrast to her enemy and rival Germany, where there is rapid increase relieved by emigration, as well as to England, where constantly expanding industry, commerce and colonization allow a corresponding expansion of population, and to the United States, where unoccupied land and free immigration give an exceptional complexion to demographic facts.

Again, the French population is of great sociological interest because of this very stationariness. Ever since Malthus raised

[1] La Population Française. Par E. Levasseur. Volumes II and III. Paris, Arthur Rousseau, 1891, 1892. — 8vo, 523, 569 pp.

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the uneasy ghost of a population increasing faster than the means of subsistence (*pace* to the logicians), the implication in all well-regulated political economies has been that a population increasing slowly, if the slow increase be due to intelligence and not to disease, vice and crime, is the desirable, if not the absolutely necessary, condition for social happiness and prosperity. Now, in France we have a concrete example of a stationary population and abundant wealth and all the implements of civilization. When one studies the French population, therefore, he has almost inevitably the Malthusian doctrine in mind. Is there in France less poverty, vice, crime, social suffering and discontent than elsewhere? Does the slow increase of population enable the community to get a firmer grip on the destructive forces with which humanity is obliged to wage war? Is the wolf chased further from the door and are the stalking shadows of disease and want made less visible to the naked eye? These questions are not quite fair to the French population; for they all rest on what is in reality simply a negative implication from the Malthusian doctrine. But in a modified form the question is quite justifiable, whether the present stationariness of the French population is conducive to the strength, well-being and prosperity of the nation. Can we trace a beneficent influence in the records of moral and immoral actions, in the statistics of wealth, education, thrift and health? What will be the final influence on the national and international position of France?

The second and third volumes of M. Levasseur's great work give us the material for seeking an answer to these inquiries. The first volume[1] was devoted mainly to an introduction on statistics as a science or method and to the history of the French population before 1789. A slight beginning only was made on the demography of modern France. This latter subject is continued in the second volume by a consideration of births, deaths and marriages (including illegitimate births, still-born, divorce, disease and other causes of death), with international comparisons; and by statistics of sex, age, urban and

[1] Reviewed in the QUARTERLY, V, 336 (June, 1890).

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rural population, of vice and crime, and of education and instruction. The third volume considers the population in relation to wealth and the means of subsistence (its fecundity, migration, colonization) and in regard to the internal and external politics of France. Both volumes contain brief discussions of questions of general interest, such as the nature of statistical laws, the freedom of the human will, the causes of vice and crime, the future of France. The abundance of facts and the skill displayed in presenting them leave little or nothing to be desired. The question of interest is whether the very learned and highly distinguished author (perhaps the most distinguished living statistician) has been able in this peculiarly favorable field and from this great mass of material to deduce stable demographical laws and, even more important than that, has been able to explain the full sociological meaning for France, for the world and for science, of a stationary population in the midst of a progressive civilization. That M. Levasseur has had both questions in mind is evident from many acute and philosophical observations scattered through the work, as well as from the formal headings of some of his chapters. That the result does not seem altogether adequate to the effort made, is due to the inherent difficulties of the problem.

The characteristics of the French population are a low birth rate, a low death rate and about the average marriage rate. For the period 1865–83 the number of births in France was 25 per 1000 inhabitants, while in England it was 35, in Italy nearly 37 and in Germany 39. The birth rate in France was the lowest of any country in Europe. For the same period the death rate in France was 23.8 per 1000, in England 21.4, in Germany 26.6 and in Italy 29.1. France does not occupy the unique place in the death rate that she does in the birth rate, for England, Switzerland, Belgium, Scotland, Denmark, Sweden and Norway all have a lower death rate. Characteristic of France, however, is the closeness of the birth rate to the death rate. When we come to the marriage rate we find that it is 7.7 per 1000 inhabitants for France, 7.6 for Italy, 7.9 for

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England and 8.4 for Germany. France stands in about the middle position of all the nations of Europe. The slow increase of the French population is due to the extraordinarily low birth rate.

A closer examination of the history of the birth rate in France reveals a constant tendency to decrease, with an extraordinary sensitiveness to any adverse influence, such as war, commercial depression or disease. The birth rate during the first decade of the century was about 32; during the decade from 1831 to 1840 it was 29; from 1871 to 1880, 25.4; from 1881 to 1888, 24; and in 1888, 23.4. The movement is a constantly decreasing one without any permanent recovery, and apparently has not yet reached its end. At the same time any extraordinary occasion sends the number far below the average for the decade. The dearth of 1817, the commercial crisis of 1827, the cholera of 1832, the hard times of 1837, the Crimean War and the great war of 1870, all left their mark in a decreased natality. If we examined the death rates for these dates, we should find an increased number of deaths, which in 1870–71 in fact actually exceeded the number of births, so that there was a decrease of population. If we take the whole century, there has been a constant decrease in the death rate corresponding somewhat to the decreased birth rate (from about 28 in 1801–10 to 22.2 in 1886–88), but this is partly explicable by the fact that the low birth rate has decreased the number of that class most liable to death, *viz.* the infants. The marriage rate has remained very nearly the same through the century.

The constitution of the population resulting from these primary demographic facts is easy to imagine. The size of the family is extraordinarily small. Out of 100 family establishments (*ménages*), 14 consisted of single individuals, 41.3 consisted of two or three persons, 29 of four or five persons, 14.5 of six or more persons. The average number of children to the family was only 2.07; and still further, twenty per cent of the families had no children, so that even if we take the families having children, the average number to each family

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was only 2.6. The low fecundity of the French family is seen if we take the number of births to 1000 married women of the age of 15 to 45 : in France it is 203, in Italy 288, in England 297, and in Germany 348.

The feeble fecundity of the French population has attracted attention for a long time and of late years has even excited patriotic alarm, and many attempts have been made to discover the cause of it and a remedy. M. Levasseur considers with great impartiality all these explanations and the proposed remedies. The statistical test to be applied here is comparison of different departments or different classes of the population, in order to determine if difference in geographical, economic or social condition is accompanied by difference in fecundity. His conclusion is that it is not a question of race, for the French in Canada are very prolific ; neither is it connected with climate, for the departments with low increase are found in the south as well as in the north of France. Some persons have been inclined to attribute it to the decline of the influence of the Catholic religion, which is accustomed to encourage marriage. But a comparison of two *arrondissements* of the city of Paris noted for the piety of their inhabitants, with two noted for radicalism in religion and politics, showed a much larger birth rate in the latter than in the former. Some minor causes at work are : the celibacy of the clergy, priests and nuns ; the modern habits of migration, which carry the young men away and leave the women unmarried ; the increased number of persons seeking employment as domestic servants, where they remain unmarried, instead of taking up manual labor ; the military duty, retarding the age at which young men are able to call themselves established ; the love of luxurious living, which either induces a man to remain single or puts off the time of marriage or leads him to seek a woman with a *dot.* All these have some influence on the population, but they are not sufficient to explain the extraordinarily low fecundity in France, because on the one hand they do not seem to diminish the marriage rate particularly, and on the other they are also found in countries with high birth rates.

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The low fecundity of the French population must be due to a general social cause, operating upon a large number of persons and sufficiently enduring to produce the permanently low birth rate which we actually find. The French do not have large families because they do not want to have them. The reason back of this general determination is, according to M. Levasseur, the desire to maintain for the children the position of comfort which the parents have obtained for themselves. The statistical proof of this proposition is the smaller fecundity among the rich and well-to-do than among the poor and the proletariat. But this test can be only a general one; for it is impossible to classify people exactly according to their wealth or social position. The indices that M. Levasseur cites are briefly as follows:

If we analyze geographically the births and size of family, we find the greatest fecundity in Brittany, in the mountainous regions of the Pyrenees and the Alps and of Languedoc, and in Corsica. These are all agricultural regions, destitute of wealth. The force of this proof is weakened, however, by the fact that the manufacturing regions of the North have an almost equal fecundity. A second indication is that those departments having the largest number of proprietors have the lowest birth rate. Again, if we classify the departments according to their contributions to the personal property tax, or the value of inheritances, or the appraised value of real estate not built upon, or the relation of the number of buildings to inhabitants (all these being indices of wealth or well-being), it will generally be found that the birth rate varies inversely as the wealth. Finally, taking two *arrondissements* of Paris, the eighth, which is notoriously rich, and the nineteenth, which is notoriously poor, the latter has a much larger number of households with three or more children than the former. M. Levasseur makes the acute observation that the constitution of the population in the poorer district is much the same as it was for all France in 1768. That is to say, he regards the low fecundity simply as the result of the increasing wealth and the disinclination to divide the wealth among too many children. In accordance

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with this belief he declares that all artificial measures for the increase of population, such as the exemption of the father of seven children from the personal property tax (law of 1889 and 1890), or paying bounties, or exemption from military service, will be of no avail, simply because inadequate. It has been argued that the compulsory division of property among the children at the death of the father restrains the number of children, and that a freedom of bequest which would allow one son to take the farm and compel the other children to seek their fortune elsewhere would make the peasants more inclined to have large families. M. Levasseur does not believe this. He points out that in the departments where the farms are the smallest, the size of the families is above the average, showing that it is not the fear of too great subdivision which is the restraining force, but the general influence of prudence. This prudential foresight is a trait which it is very difficult for a Frenchman to condemn, and M. Levasseur cannot find it in his heart to condemn it in the individual case. This brings us directly to the question whether the slow increase of population is a good or an evil for France.

The answer to this question is extremely difficult and complicated. So far as the individual is concerned, the author is inclined to take a favorable view of it; so far as the economic and political future of France is concerned, he shares the patriotic fear that France may fall behind the other great nations of Europe. So far as the individual is concerned, the slow increase of population has been accompanied by an enormous increase in wealth. The Malthusian fear that population may increase at a faster ratio than the means of subsistence has not only not been verified, but has been directly refuted, by the history of France. This more rapid growth of wealth as compared with population must result in an increased average well-being, and M. Levasseur attempts to show that there has been an increase in wages and a diminution in the cost of living by which this well-being has been shared by the laboring classes. If all this be true, the French population

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may be looked upon as something typical, to which the other nations of Europe will gradually approach. It is not probable that the rate of growth of the population of Europe maintained during the last hundred years will continue. Some day the demographist may refer to France as having led the way in a movement necessary for civilization.

It is only from the political point of view that the slow increase of the French population excites apprehension. In 1801 there were five great powers in Europe, and France comprised twenty-one per cent of their total population. Now there are six, and France comprises only thirteen per cent of their population. The annual natural increase of population in France since 1872 has been 3.4 per 1000, while in Germany it has been 11.6 per 1000 (volume iii, page 491). France, with a population of 38.5 millions, maintains an army and navy of 655,000 men, that is, 17 soldiers for each 1000 inhabitants; while Germany, with a population of 49.5 millions, maintains an army and navy of 535,000 men, or 10.8 soldiers per 1000 inhabitants. The burden on France is a very heavy one and grows heavier as the discrepancy between populations increases. The only chance for a lasting peace, *viz.* the restoration of the French frontier in the east, seems impossible of attainment.

Such is the significance of the almost stationary state of the population for France herself, socially and politically. It is natural that M. Levasseur should treat of it principally from the French point of view. On the basis of his book, however, we can broaden out the question and ask whether a stationary population brings with it other social conditions differing materially from those we find elsewhere. Are the secondary demographic facts any more favorable to social well-being in France than in other countries of similar civilization but increasing population? The answer here is partly favorable and partly unfavorable or indifferent. The low birth rate in France results in an age constitution of the population which is favorable both economically and demographically. There is, namely, a small proportionate number of children and a large

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proportionate number of adults in the productive periods of human life and in the ages where mortality is least. This is one of the causes of the low death rate and of the increasing average duration of life. The number of still-born and of illegitimate births is rather less in France than in Europe at large, and this is a favorable demographic sign. On the other hand criminality, suicide and vice are increasing faster than the population, which shows that France is not escaping the unfavorable influences of the growth of industrialism. In fact stationariness does not seem to imply unchangeableness in social conditions or any particular conservativeness on the part of the French population. This is seen most clearly in the movements of migration. There is very little emigration and this may perhaps be due (as M. Levasseur affirms) to the contentment of the Frenchman with his condition. Its only unfavorable effect seems to be in weakening the French power of colonization and of commercial expansion in competition with other nations who send their representatives everywhere. Immigration into France is more marked than in any other country of Europe. Part of it is due to the attractiveness of the French capital, and while the effects are not altogether conducive to social morality, yet they are not important enough to excite alarm. The other part is due to the influx of foreign workmen, especially on the confines of Belgium, Germany and Italy and in the large cities. This has already excited the resentment of the working classes, and it must be confessed that if the stationariness of the French population is favorable to high wages, this movement tends to counteract the good influence. But democracy is so strong in France that it will undoubtedly interfere as soon as the pressure is at all felt.

But the most significant migratory movement is from the country to the cities. This is going on rapidly in all the countries of the world. When it means that the country simply gives up part of its surplus population to the city, it only shows that the demand for labor is greater in industry than in agriculture, and that now a less proportionate part of the

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productive power of the community is needed in growing food and raw materials than formerly. This is a natural result of the industrial condition. In France we might expect the movement to go on more slowly, because there is very little surplus population to be disposed of. As a matter of fact, however, we find not only that the country is growing less rapidly than the city, but that the country population is absolutely decreasing in number. In 1866 the rural population numbered 24,942,392; in 1886, only 24,452,395. It is this migratory movement from agriculture to industry which assimilates French demography in its secondary manifestations to that of other nations. The low birth rate is a significant fact, but the influence of social conditions seems to be the controlling one in the statistics of vice, crime, *etc.* France has not taken herself out of the general social and political movement of Europe, and we find with her, notwithstanding her stationary population, very much the same problems as elsewhere. Whether she is typical of the civilized state of the future we cannot say. There seems to be no reason why she should not be. An indefinite multiplication of human beings does not in the present state of society seem to be a particularly desirable end. Owing to the influence of biological analogies, we are beginning to look upon selection as a more important matter than mere increase. The economist who regards labor simply as a commodity may rejoice in an increased quantity of it. He employs merely the conceptions of trade, of the market, and applies them with narrow-minded confidence to the phenomena of social life. To the sociologist the fundamental fact is not the labor but the laborer — the social unit that stands behind the labor whose combination makes up the organism of society. When French demography shows us that a stationary population means improved economic and social conditions of human life, it will be time to regard it as an ideal.

There is one more question which we have not answered: Does the French population reveal any more clearly than another the fundamental laws of demography? This is the least satisfactory part of M. Levasseur's work. The usual

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relations (physiological) of sex at birth, of mortality at different ages, of probability of life, of conjugal condition, *etc.*, are revealed and commented upon. But the most difficult and at the same time the most vitally interesting question in statistics is in regard to individual responsibility or social necessity in the commission of moral and immoral actions. French criminal statistics stretch back further than those of any other country in the world. The slow increase of population and the slight emigration make it a particularly favorable field for observation. These considerations, and the fact that this is one of the most important sides of the social life which the author is trying to depict, make the single short chapter devoted to the statistics of vice and crime seem inadequate. As to the causes of crime the author occupies a position of extreme moderation, very far from fatalism or necessitarianism. These causes are as follows:

L'homme est déterminé au mal par des causes diverses :

1. Les unes sont purement psychologiques et individuelles. Dans cette catégorie se placent au premier rang les mauvais instincts de la nature humaine, les passions violentes ou basses, la paresse et la débauche. Elles peuvent se rencontrer dans tous les rangs de la société, de même que dans toutes les familles des monstres peuvent naître de parents bien constitués. C'est pourquoi on voit des hommes de toute condition passer devant les cours d'assises. . . .

2. Les autres sont des causes sociales et partant générales. La misère, les mauvais exemples dans la famille et, hors de la famille, le manque d'éducation, les tentations résultant du maniement de la richesse et du désir de luxe sont du nombre des principales. . . .

3. Il y a aussi des causes climatériques, non seulement parce que le climat influe sur l'état social et sur la richesse des populations, mais parce qu'il exerce une action sur les instincts individuels. Il semble que le soleil rende les hommes plus expansifs et par suite plus violents : il se commet plus de crimes contre les personnes dans le midi que dans le nord. D'autre part ce genre de crimes est plus fréquent en été qu'en hiver.

En empruntant à la philosophie son langage, on pourrait dire que la première catégorie comprend les causes subjectives, la seconde et la troisieme les causes objectives. [Volume ii, page 441.]

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This may be a philosophical point of view, but it is not the statistical or demographical. The science of statistics is interested in the objective not in the subjective causes. Its purpose is to reduce the latter into the categories of the former, and the latter are called subjective only because they elude the effort to reduce them into objective causes. We do not progress by dubbing certain causes as psychological and individual, but by searching out the connection of these so-called psychological and individual causes with general external or social influences. There is nothing materialistic or fatalistic in this demand. Neither do we assert that all causes can thus be reduced or classified and all phenomena thus accounted for. All we assert is that this is the particular business of statistical or sociological science and that the science has no other reason for existence.

The same timidity (if the term is not too harsh) seems to me to influence the author in the chapter on the freedom of the will. He evidently fears that we may destroy the notion of the responsibility of criminals if we go too far in showing the causal relation between crime and the environment of the criminal. But the statistician has nothing to do with this. He has no desire one way or the other in regard to the responsibility of the individual to the community. It may at once be admitted that statistics are not able and probably never will be able to disprove the notion of a freedom of the will; for wherever we get regularities we also get irregularities which cannot be accounted for. But it is the business of the statistician to seek the regularities wherever they can be found. This, however, does not lead to mere fatalism and destroy the possibility of social reform. Quite the contrary; for the possibility of social reform consists in being able to predicate of a certain evil that it is the result of a certain cause, and then to remove or modify the cause. I do not believe that M. Levasseur would deny this; but it has seemed to me that he has been too modest in emphasizing the positive conclusions of demography and too acquiescent in that popular and superficial philosophy and psychology which considers the individual solely by himself,

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without regard to his social surroundings. The whole tendency of such investigation is to formulate a science of population (demography) which shall reduce the apparently arbitrary and capricious actions of the individual to general rules. No one knows better than the statistician himself how far from the desired completeness and adequateness his statistical proof of social laws is, but he must remain firm in the belief that social laws can be established. As Goethe says: "Der Mensch muss bei dem Glauben verharren dass das Unbegreifliche begreiflich sei; sonst würde er nicht forschen." The scientific statistician is often more embarrassed by the unwise friend who claims too much than by the scoffing enemy who denies everything; but there should be no doubt as to his own belief in the ultimate possibilities of his science.

All this is but a slight criticism to make of this substantial and splendid piece of work, which offers to the French such a complete picture of their national life, and which will be of scarcely less interest to foreigners, because drawn with such just perspective and with so generous a background and surroundings that it is in reality a picture of a piece of humanity.

RICHMOND MAYO-SMITH.

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REVIEWS.

Der Getreideterminhandel. Von DAVID KOHN. Leipzig, Duncker und Humblot, 1891. — 189 pp.

A large part of this work is devoted to a discussion of the general principles of dealings in futures. The practical applications are made more especially to the transactions on the produce exchanges, since it is the writer's intention to deal with stock speculation in another volume.

The first essential feature of a trade in futures, according to the author, is that no particular goods, but a particular grade of goods shall be transferred. The aim is to avoid so far as possible all consideration of concrete objects, and to deal directly with an abstraction called price. The bourse becomes in reality a price market. But abstract price, apart from varying physical qualities, is only conceivable in the case of commodities which are (1) homogeneous, completely capable of substitution or replaceable without loss; (2) divisible into certain units of invariable size or quantity; and (3) regularly produced and consumed in definite periods of time, so ensuring a fairly constant equilibration of demand and supply. The general rules of the exchanges provide for a maximum variation from the standards of quality or quantity which will be allowed without vitiating the contract, and the various terms of contracts are strictly defined. Every variable feature of the transaction is thus eliminated except the price, and this becomes the real object of transfer. As the banker buys and sells an abstraction, called credit, so does the speculator deal in price; the one transaction is as legitimate as the other.

The author affirms that several varieties of contracts for future delivery are not in reality true futures. The so-called "*ventes maritimes*," where actual delivery is promised on condition of the safe arrival of a cargo, is not a future; for this contract requires an actual delivery of the commodities or a settlement by differences, with recourse to forced sale or purchase in case of non-fulfillment. The future is also distinct from the dealings in warrants. In the latter the trading may be for a future time, but a particular portion of

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goods is reserved for the ultimate transfer. The warrant system therefore offers no opportunity for speculation for a fall, as sales in blank are not possible when the total quantity of goods at the traders' disposal is fixed by the visible supply. The true future must allow for speculation for a fall as well as for a rise, and this is its characteristic feature. The operator forecasts and discounts the future; but a prevision of lower prices can only be discounted by the sale of goods which are not in the actual possession of the seller. The only safeguard against a foreseen time of plenty, when prices must be lower, is to anticipate it by a sale in blank, or by the much abused "short sale," of goods which are to be acquired by the seller at a later time. If the goods were actually on hand, as it is believed by the seller they will be, the price would fall of its own accord.

The author presents very fully the advantages of such operations to society. He regards the future as the highest point reached in the evolution of trade through the successive phases of barter, money and credit exchange. Credit stands necessarily in close relations to the future proper, but the latter approaches most nearly to the purest abstraction of trade. And it is this abstract character that renders it so difficult to understand. The influence of such dealings in preventing the enormous fluctuations in price which formerly were common, appears in the fact that it has reduced the average range of grain prices on the Berlin bourse during this century by more than sixty per cent. It insures a continuous open market to all. It equalizes prices throughout the world's market by means of arbitrage houses. It brings the consumer nearer the producer. It keeps general business informed of the probabilities for the future. It brings the market price nearer the true normal price, whereby goods gravitate naturally where they are most needed. Even the much condemned system of "*ringing*," or settlement by differential payments, is of great value, since it gives to the man without capital who can render most service to the community by reason of his skill and sagacity, the opportunity to apply these qualities to the determination of price. If all transactions had to be concluded by actual delivery, but a few wealthy operators could deal in grain, and chances for cornering the market would be vastly increased. Most important of all, perhaps, the author thinks, is the fact that the whole tendency of true future trading is to abolish its own abuses. It has been clearly proved that progress is making toward more accurate prevision of the future. Professor Gustav Cohn, in his studies of the Berlin bourse,

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has shown that the average error in forecasting future prices on this exchange from 1850 to 1858 was 14.35 per cent; from 1858 to 1867 it was 10.65 per cent; from 1867 to 1871, 6.38 per cent; from 1871 to 1876, 4.20 per cent. This reveals an ever closer approximation to the real condition of affairs. The inference from this is that the profits or losses derived from mere betting are becoming greatly lessened, and that the so-called "iniquitous spoliation" by differential payments is diminishing in amount as the number of men and interests involved increases.

To the objection that such speculation raises or depresses prices unduly, the best answer is to be found in the mutual contradictions of the objectors. In producing, exporting countries, the complaint is ever that prices are depressed; while in European consuming countries the objection is always that prices are unduly raised. Both views cannot be true, and the one complaint neutralizes the other. The current objection in this country, however, is perhaps more directly met by Professor Cohn's statistics, which show that in twenty periods on the Berlin bourse, out of fifty-two covered, predicted prices were higher than the actual quotations proved to be, and moreover that the average positive error on the total transactions exceeded the minus one.

The author devotes an interesting chapter to the history of the legal status of future contracts. In France the law of 1724 refused to uphold contracts without actual definition and stipulation of the goods. This was revived from time to time till the early part of this century. After 1832 the courts generally refused to recognize future contracts, if the plea of wager or fictitious sale was entered, but in 1847 the same courts began to distinguish between wagers and true futures. The development since then has been to make the intention of delivery, without the actual deposit of the goods, sufficient to secure the validity of the contract. The law of 1885 has finally legalized transactions which do not exclude actual delivery. In Italy, courts will recognize contracts in futures, even for settlement by differential payments, if all customary forms are followed. In England, the laws of 1845 and 1860 refused right of action at law, if the seller was not in possession of the goods when the contract was made. In Holland, the greatest latitude is allowed, and no contract is presumed to be a wager, and therefore invalid, except such as expressly exclude actual delivery of goods. This is the most advanced legal view yet taken, but some of our courts have assented to it. (*Cf.* the case cited in the POLITICAL SCIENCE QUARTERLY, vol. vii, p. 422.)

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Having treated of the nature and the legal status of the future, the author discusses its social significance. He conceives that the tendency of modern life is in favor of the aggregate, as against the individual. If, then, the individual is not to be annihilated, a just balance must be sought by assisting him in the unequal struggle. Either education must fit him to cope more efficiently with the circumstances of his environment, or these circumstances must in some way be rendered less oppressive. Legitimate speculation renders the latter process more easy; for it tends to make the future more clear, and so lessens the probability of deception and spoliation of the less favored individual by the few who possess superior advantages, either of education or of wealth.

An objection to this theory, however, appears in the fact that, as the author half admits, the large producers and consumers are especially benefited by the nature of the exchanges, where such transactions take place. For instance, the unit employed upon the New York exchange is 16,000 bushels of wheat, which obviously excludes the small producer from direct participation in dealings there, and consequently from the coincident advantages. How far such considerations as this would vitiate the above theory is matter for discussion. The movement in favor of great enterprises, it may be said, however, is no more marked here than in the other phases of our modern economic life.

On the whole Mr. Kohn's work appears to be sound and logical, although it might be wished that a few more practical examples had been adduced to illustrate the theories. There is also a tendency toward an over-elaboration of some of these principles. For instance, in searching for a distinction between the market and the exchange, it is affirmed that in the former the merchant meets the consumer directly, while in the latter the trader deals entirely with middlemen. Here the writer appears to be inconsistent. By his own proposition that the actual trade of the bourse is not in grain or cotton, but in value or price, is not the speculator as truly the consumer of price as the retail merchant or the artisan's family is the consumer of grain? If the bourse be but a price market, is it not an over-refinement to attempt a further distinction between the two? Again, there seems to be an hiatus in the reasoning which ascribes to the modern increase in the amount of future dealings, the coincident decrease in the range of speculative prices. It is conceivable that other factors, such as speedier and more certain means of communication between different markets, may have been at work here.

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These, however, are but minor objections. The book is a valuable contribution to a little-understood branch of economics and is worthy of careful study.

WILLIAM Z. RIPLEY.

The Industrial and Commercial History of England. Lectures delivered to the University of Oxford by the late JAMES E. THOROLD ROGERS. Edited by his son, ARTHUR G. L. ROGERS. New York, G. P. Putnam's Sons, 1892.—473 pp.

This book fails to suggest by its title the interest which it bears for students of political economy; for it is not an "industrial and commercial history of England," but a series of lectures on quite a broad range of topics in which industrial and commercial facts in English history are frequently, though not exclusively, used for illustration or argument. These lectures are edited by Mr. Arthur G. L. Rogers, son of the late Professor Thorold Rogers, and are given to the public substantially as delivered in the hall of Worcester College, Oxford, in the autumn of 1888 and the spring of 1889. It is somewhat unfortunate that the editor did not feel himself at liberty to prune the manuscript a little more thoroughly; for the reader might then have been spared the irritation and annoyance occasioned by many phrases and allusions of a local character which are wholly irrelevant to the argument. The student reads Professor Rogers' works for the facts which he gives and not for the theories which he holds, and it is not comfortable for the reader to feel himself in danger of being called a "fool and a poltroon," should he happen to agree with Ricardo rather than with the author. The pleasantries, too, which may perhaps have been effective in the class-room, should have found no place in the published work. In discussing the Scottish lease, for example, the lecturer has occasion to differ with the Duke of Argyll and says: "Greatly as I respect the duke's abilities,—for I value them almost as highly as he does himself,—I am constrained to accept the evidence of Sir John Sinclair, *etc.*" This is, doubtless, an innocent pleasantry, but for American readers who are wholly unacquainted with the Duke of Argyll's peculiarities, it weakens the force of the text. It is more excusable in his discussion of the theory of rent for Professor Rogers to say of Henry George: "He can no more reason than the founder of a modern religion"; this is not only witty but it hits the nail on the head.

The Industrial and Commercial History of England has, it is believed, less merit than previous works from Professor Rogers' pen, because

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it does not contribute as much to our knowledge of economic history, nor can it be said that the discussions upon the subjects selected for the lectures are at all exhaustive. In the first lecture, for example, "The Development of Industrial Skill in England," in which one would naturally expect a statement of the mechanical, industrial and agricultural changes by means of which the industrial England of the fifteenth century has come to be the industrial England of to-day, we find instead a discussion on the "blunders of economists and amateurs," an argument as to the fallacy of the "sole market theory," and a statement of the "effect of production on international trade." The second chapter, which treats of the "Conditions of Economic Progress," is equally disappointing when judged from the point of view of a comprehensive analysis. No more attractive titles could be desired for lectures than "Economic Legislation from 1815 to 1841" and "Economic Legislation since 1841"; but the titles are misleading, for the text tells next to nothing of such legislation.

It is not, however, in the complete presentation of the subjects discussed that the merits of this book are to be discovered, but rather in the pertinent suggestions, shrewd observations and interesting facts which may be gleaned from it. It is, for example, worth reading the book, to find a statement of the rule for converting the prices of former centuries into the prices of the nineteenth century. Thus, we learn that prices of the fourteenth century should be multiplied by twelve and prices of the seventeenth century by two, in order to reduce them to the standard of nineteenth century prices. There are, perhaps, few economists who would accept Professor Rogers' analysis of the doctrine of rent, which concludes that rents are determined by agricultural profits rather than by the prices of agricultural products; but nowhere else can one find so clear and concise a statement of the changes in the nature of rents at different periods as in his chapter which deals with this subject. Thus, the author states that from the middle of the thirteenth to the middle of the sixteenth century rent was at its maximum, but at a fixed charge; from the middle of the sixteenth century to the middle of the seventeenth century rackrenting prevailed in its harshest form; from the middle of the seventeenth century to 1725 still another system of rents prevailed; from 1725 to the end of the Continental War rackrenting again made its appearance in England; from 1815 to the repeal of the Corn Laws "farmers had little to complain of"; after the repeal of the Corn Laws "rackrenting recommenced and continued until more than ten years ago; then the whole system col-

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lapsed in a common ruin." Here is a series of facts which are of the utmost importance in guiding the student who undertakes to study the manner in which landed property was held, used and controlled in England. It is the outline of a treatise that needs to be written. Especially suggestive is the chapter on "The Joint Stock Principle in Capital," in which the question of limited liability is discussed in a most fruitful manner; the complementary chapter on "The Joint Stock Principle in Labor" is not as satisfactory.

It would perhaps be impossible for economists of the present generation to judge fairly the place which Professor Rogers will hold among nineteenth century economists. They are too greatly indebted to him for the mass of material which he has placed at their disposal, and their gratitude would incline them to undue charity when dealing with his industrial theories. One statement, however, may be made with confidence: the permanent reputation of Professor Rogers will rest on his earlier rather than on his later publications.

HENRY C. ADAMS.

History of the English Landed Interest, its Customs, Laws and Agriculture. By RUSSELL M. GARNIER. New York, Macmillan & Co., 1892. — xviii, 406 pp.

In this work an attempt has been made to write the history of the landed interest of England from the earliest times to the close of the Stuart period. It is in the mind of Mr. Garnier but the beginning of more extended publications, for he proposes, if encouraged, to write for the casual reader not only a second volume, bringing the above subject down to the present time, but also short, simple histories of the land laws, agriculture, gardening, *etc.* I trust that this first installment is not Mr. Garnier's conception of a short, simple history; if so, it is to be hoped for the sake of the casual reader, for whom the above work has been put together, that the others will never be written.

In the latter part of this work, from the fourteenth chapter to the close, there may be found some appreciable merits. These, however, are mainly negative. The agriculture of the Middle Ages is fairly well described; there are some good pictures of estate life — convenient *résumés* of Walter of Henley, Fitzherbert, Tusser and others, with a liberal sprinkling from Rogers' various books. But Mr. Garnier is not always accurate even here, and unfortunately we can discover no symmetrical plan of treatment, and no logical arrange-

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ment whatever. The best that can be said is that the chapters contain considerable information for the curious reader who wishes some sort of knowledge of mediæval landholding and agricultural life.

The defects of the later chapters are more marked in the earlier and the merits are altogether wanting. Here at least it seems to be the case of an attempt to write a history without historical training or judgment and without any conception of historical perspective or of the laws of cause and effect. Mr. Garnier has plunged boldly, almost gaily, into a subject to treat which requires something more than an interest in current English agrarian problems. Mr. Garnier writes with the judgment of an English land-agent of the nineteenth century. He has no historical imagination; all times are alike to him, as are all authorities. Although he says that Anglo-Saxon life was "a retrograde movement towards the savage times of the aborigines" (page 95), yet in the same breath he can talk about a national Anglo-Saxon clergy and houses of worship and an Anglo-Saxon civil service and fiscal system; he can speak of bocland as evidence of the Anglo-Saxon legal acumen, and as controlled by a national statute book. He uses a strange medley of old and new authorities and seems to have no conception of their relative merits. Hume and Sharon Turner are of an equal value with Stubbs, Maitland and Ashley. There are many confused quotations, bad etymologies, misspellings and erroneous statements. All this, however, might pass for the casual reader, were the style clear and the impression left a true one. Such is not the case. The style is confused; the arrangement of matter is illogical and apparently aimless. The reader, if he has no ideas at all upon the subject, will be lost in the confusion; if he has ideas, they will become hopelessly befogged. The impressions left will be erroneous because Mr. Garnier has no adequate conception of the subject himself and cannot therefore be expected to teach others. I wonder the Messrs. Macmillan & Co. have lent their name to a book with so few merits.

CHARLES M. ANDREWS.

The Old English Manor: a Study in English Economic History. By CHARLES MCLEAN ANDREWS. Baltimore, the Johns Hopkins Press, 1892. — 291 pp.

This is a solid and useful piece of work. Dr. Andrews has worked carefully through the Anglo-Saxon material; he has read widely, if somewhat hastily, in recent literature; he has put together

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a great mass of information on the internal life of the agrarian groups at the end of the Saxon period; and he has opinions of his own as to their origin.

These opinions may be summarized as follows: The English manors grew out of the settlement on British soil of kindred-groups of English invaders,—groups variously described as "clans" and "sub-clans" (pages 27–29, 51, 56–57). But "the Teutonic clan or sept when transported to England" should not be regarded as chieftainless, or as having a chief "of so purely elective a character as to be without importance in the discussion" (page 58). Mr. Andrews' theory would "start with a clan chieftain whose position is practically hereditary," and "thus carries the seignorial element to the very beginning" of English history (page 49; *cf.* page 66). But to these propositions important limitations are attached. "In the north, in Cumbria and Craven, the evidence seems to be strong in favor of the existence of the British language and British race under Anglians, Danes and Norsemen;" so that it was only "in the south and southeast" that there was "free scope for the Teutonic system" (page 43). Moreover, even in the south and southeast, more than half the land was waste at the time of the English conquest, and was afterwards brought into cultivation chiefly as a consequence of its grant by the king to his *comites* and to the church. On estates thus granted the grantees' *tuns* would first be built, and around them would grow later collections of huts which formed villages (page 64); so that over a large part of the country there would be from the first not only a seigneur but a seigneur who was also the *owner* of the village lands.

Dr. Andrews evidently regards his book as supporting in the main the original free-village community theory as against those bold bad men, Fustel de Coulanges and Seebohm. But he will perhaps, on reflection, allow that when the free village is limited to about a third of the country and even then a chieftain is placed over it, the old theory of Maurer is well-nigh whittled away. May we not suspect that it is academic piety,—a reverence for that mark theory which has done so much to stimulate historical investigation at Johns Hopkins — which prevents the author from recognizing this? If so, there are others who have gone through the same stage. One, at any rate, who now thinks that in the directions indicated by Seebohm and Fustel lie our best hope of a solution of the problem, can recall with amusement the time when he regarded Mr. Denman Ross as an amiable lunatic.

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Mr. Andrews' stone of stumbling is what he imagines to be Mr. Seebohm's doctrine of the Roman origin of the manor. It will perhaps be found on re-reading Mr. Seebohm's book that his doctrine is after all not quite so "extreme" (page 66) as our author would lead us to think. Mr. Seebohm expressly refuses to decide positively whether the English invaders "conquered and adopted the Roman villas . . . . with the slaves and *coloni* and *tributarii* upon them" or "destroyed the Roman villas and their tenants and established fresh *hams* of their own" (*Village Community*, p. 420), though he thinks the former is more probable. All he is really anxious to show is that "there was a sufficient amount of continuity between the Roman villa and the Saxon manor to preserve the general type" (page 421). Mr. Seebohm is, of course, not absolutely consistent; no really original writer ever is: but it ought to be remarked that he more than once refers to the possibility that the English invaders brought "semi-servile" dependants with them (page 419); and he even goes so far as to suggest that "the holdings of tribal (Teutonic) households might quite possibly be, from the first, embryo manors with serfs upon them" (page 366).

It is not without reason that the pro-markian critics of Mr. Seebohm are recommended to read him over again. Not a few of them, from Professor Freeman downward, have fallen into the mistake of attributing to him a belief in a South-German origin of the English — an opinion sufficiently absurd. Mr. Andrews shares the prevalent misconception, and has two pages of solemn argument against the supposed "theory" (pages 31–33). All Mr. Seebohm tries to do is to put the "marksmen" and Teutonists on the horns of a dilemma. The three-field system is not found in North Germany; therefore the English must *either* have not brought it with them (*i.e.* they must have found it already existing in Britain), *or*, if they brought it, they cannot have come from North Germany. But this latter seems very improbable. Hence one must accept the former alternative. This was Hanssen's view (*Village Community*, 373), and this, Mr. Seebohm somewhat mildly says, appears to him also "the more likely theory" (*ibid.* p. 410); while he once more states the same dilemma a few pages later (page 421.) And to pass from great things to small, a more careful reading of Mr. Seebohm would prevent the appearance of such statements as that "the village community investigated by Mr. Seebohm is located solely in the south" (page 61; *cf. Village Community*, 60-72).

Mr. Andrews' book as a whole, however, is a very creditable per-

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formance; and it is to be regretted that it is marred by frequent instances of bad style. He speaks of "advancing a fact" (page 9), of "suppressing a theoretical system" (page 12), of "law" as "forming a conception" (page 14), of "a strong view" (page 20), of "steps in economic dependence" being "well advanced" (page 68), and of "land" as "originating in custom" (page 83). And that note of provinciality — the undue deference to authority and current opinion — is not as absent as one might wish: there is certainly a little too much about the "trend of opinion," and "the judgment of" X and Y. It does but little good in an investigation of this kind to be told what eminent authority A says of the presumably rash person B, unless we are given the grounds of his judgment.

W. J. ASHLEY.

Principios de Finanças, gusendo as Prelecções feitas pelo lente da Faculdade de Direito. ANTONIO DOS SANCTOS PEREIRA JARDIM. Quarta edição. Coimbra, Imprensa da Universidade, 1891. — 8vo, 395 pp.

Tratado de Hacienda Publica y Examen de la Española. Por JOSÉ M. PIERNAS-HURTADO. Cuarta edición. Madrid, Ginés Hernández, 1891. — 8vo, 540, 677 pp.

The most significant fact of recent scientific development is its growing international character. Not only does the modern economist find it necessary to draw his facts from a wider field than that of his own country, but if he desires to keep abreast of the modern movement he also finds it incumbent on him to read many languages and to note the advances in theory in widely distant countries. In no domain is this more true than in the science of finance. I have had occasion recently to point out some very remarkable studies by Dutch writers. Attention is now called to the works of a Spaniard and a Portuguese.

The Portuguese work of Pereira Jardim interests us more from the standpoint of fiscal practice than of fiscal theory. Not that theoretic discussions are absent or without ability; but as the work is a posthumous one, based on lectures delivered several years ago, the field of discussion does not include the newer theories of the last decade or two. Leroy-Beaulieu and Parieu among the French, Rau and Jacob among the Germans are the latest foreign authors discussed. Pereira Jardim does not really add anything to the theory of the science. But the history and description of Portuguese public

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finance, and the continual references to the inter-relations between Portuguese law and economics will be welcome to the student of comparative finance.

On the other hand the two-volume work of Professor Piernas-Hurtado of Madrid is interesting in many ways. Like the Italians and the Dutch, but unlike the French, the Spanish writers have profited by recent German investigation, and treat many of the problems from the newer point of view. But Piernas-Hurtado, while quoting liberally from Wagner and the other Germans, preserves his own individuality and does not fear to take issue with them occasionally. We notice this not alone in questions of theory, like that of progressive taxation, but in problems of practical politics, like the governmental assumption of railways.

The introductory chapter, on the history of the science of finance, is valuable as calling attention to numerous Spanish writers, not alone of the seventeenth century, when Spanish literature was still almost at the flood, but also of more recent times. The author points out the causes of the essentially individualistic trend of the nineteenth-century Spaniards, and the socialistic reaction of more recent years. The general features of the development are the same in Spain as in almost all the other European countries. Like some of his German models, Piernas-Hurtado devotes a number of chapters to the conception of the state, economic life in general and the economics of the state in particular. He looks on public expenses as public consumption, but, like pretty much all other writers on public expenses, has almost nothing but platitudes to give us here. When we come to public revenues, however, it is different. He classifies public revenues according as they arise from gifts, fiscal domain, public works, fiscal monopolies, taxes, eminent domain, fines and escheats, and devotes several chapters to each of the important classes. The most noteworthy point in his treatment of taxes is his view as to the basis of taxation. He discusses in turn expense, income and property, and finds each of these essentially defective. The really equitable basis of taxation he finds to be faculty, or the economic position of the individual as shown by the "liquid assets" (*el impuesto sobre los haberes liquidos*). By this term he wishes to denote the means of the individual as conditioned by his needs, or the proportion between income and property on the one hand, and the claims made upon him by expenses on the other. Piernas-Hurtado thus simply attempts to put into plain language the marginal utility theory of taxation, as developed by recent Dutch and German

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writers. He confesses that this alone will not remedy social evils, that it is not susceptible of an exact mathematical computation, and that it may give rise to arbitrariness; but he maintains that the other suggested bases of taxation disclose the same or greater defects. Regard for the individual position of the contributor is the really important aim to be kept in view. The vagueness of this test as a practical programme of taxation will at once strike the reader; but Piernas-Hurtado is content to leave the discussion in the field of theory.

Later on, in treating of the various classes of taxation, he has many good and practical suggestions to make. The whole of his second volume in fact is devoted to the history and criticism of the state, local and colonial public finance of Spain, and he clears up much that Parieu and other writers have failed to explain. Like so many of the continental tax reformers, he sees the greatest promise of improvement in the substitution of direct for indirect taxes; and he devotes a considerable portion of the work to the proposed adjustment of the Spanish public revenues to the principles of uniformity and universality. Several chapters on the theories and practice of public credit, and especially on the budget and financial administration, conclude a work whose open-mindedness, clearness and wide range of view entitle it to an honorable place in the list of text-books of finance.

E. R. A. S.

Free Exchange. Papers on Political and Economical Subjects, including chapters on the Law of Value and Unearned Increment. By the late SIR LOUIS MALLET, C. B. London, Paul, Trench, Trübner & Co., 1891. — xxiii, 356 pp.

In these days a declaration of absolute faith in individualism and *laissez faire* possesses a pleasing pungency. Sir Louis Mallet, comrade of Cobden and statesman of the ultra-liberal school, never swerved from *Manchesterthum.* What to others was the policy of free trade was to him the axiom of "free exchange," a principle identical with that of private property. We gather from his son's preface that he endured factory laws and did not "discourage" operations on the "Residuum," but "his general attitude was one of distrust of all restrictive and protective legislation." He saw no other thrall than the law, and reports of labor commissions could not convince him that legal freedom would ever mean actual serfdom or slavedom.

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The author's *laissez faire* is not the mild distrust of government shown by Mill and the English school. It is rather that absolute confidence in the beneficence of "let alone," which has so often yielded material support to the adipose optimism of the well-to-do. It rests on the philosophy of Bastiat and Leroy-Beaulieu and Mr. Atkinson. Our author brings to the aid of this school the Jevonian doctrine of final utility, and with it attacks the "cost" and "labor" theories of value. With the passage from labor-value to use-value disappears the "unearned increment." In all classes of goods only the marginal products exchange in proportion to cost. The remaining goods are out of relation to cost, and yield rents varying with differential of advantage. To abolish rents is to destroy values as we know them. The fact is, inquiry whether a value is "earned" or not is beside the mark.

> It is of no consequence whatever to the man or to the society receiving a service, whether or not the man or class rendering it is remunerated in proportion to his labor, or his sacrifice, or his merits of any kind. . . . It is not the labor incurred, but the labor saved, which concerns the recipient of a service.

What a weapon this avowal of the non-ethical nature of value places in the hands of socialists!

Natural monopolies, especially land, are vigorously defended from the "Jacobinical declaration" of Mill. Rent is "the beneficent process by which an undue pressure of demand on supply can best be averted." Remove the rents that support the leisure class, and men would come to be nothing more than "semi-savages, living always up to the extreme margin of subsistence, and periodically kept within necessary limits by famine and starvation." How Henry George would enjoy this *naïve* admission that rent is a substitute for famine! Of course the author is a Malthusian of the primitive type, relying more on positive than on preventive checks. "Men are neither wise nor virtuous as a rule;" so we need rent as a flood-gate to keep back the menacing millions of unborn.

Sir Louis does not take the trouble of showing that the rent-receivers themselves will not over-populate. As "our noblest class" and an order of beings quite superior to the vulgar British laborer, they may no doubt be trusted not to misuse their prosperity. Landlords and non-landlords probably propagate according to different laws.

While not of scientific import, the book is an interesting sample of a certain kind of economic thinking.

EDWARD ALSWORTH ROSS.

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The Tariff Controversy in the United States, 1789–1833. By ORRIN LESLIE ELLIOTT, PH.D. Leland Stanford Junior University Monographs: History and Economics, No. 1. Palo Alto, 1892. — 8vo., 272 pp.

The first impression of the readers of Dr. Elliott's monograph is that the author has laid out his work on a very generous scale indeed. His subject is the tariff controversy — the history of opinion on the tariff. He touches the details of legislation but incidentally, the economic effects of legislation not at all. He covers, moreover, only a part of the tariff controversy, up to 1833; yet he gives us some 270 large pages. No doubt, it is to the advantage of scientific research that the investigator should not merely state his results, but should explain how he reached them, and present his proofs with ample detail. The Germans set the world an excellent example in thorough research and unwearying exposition; but they often set a depressing example in sparing the reader no item from the contents of their note-books. Dr. Elliott, like all economists of the younger generation, feels the German influence strongly, and he may be fairly reminded that it is still a virtue to be concise. He devotes some seventeen pages to a summary of Hamilton's Report on Manufactures; half-a-dozen pages apiece are given to other documents and speeches; and the debates in Congress on various tariff acts are followed with over-conscientious fidelity. Would not a briefer account suffice?

If Dr. Elliott's summaries are full, they are also careful and intelligent. He has worked up his material thoroughly, and his occasional comments are just and appreciative. The uncertainty and vacillation of opinion on the tariff question in the first years of the nation; the gradual growth of a feeling in favor of protection, based mainly on political grounds, during the complications with foreign countries in 1806–1815; the development after 1816 of a protective movement resting more distinctly on economic grounds; the attitude of North and South in 1820–30, — these are followed with perhaps needless detail, but with truth and in the main with good judgment. To the present writer it seems that more stress might be laid on the great increase of the feeling in favor of protection in the North after the financial crisis of 1818–19: the popular protective movement fairly began with that overturn. And if the tariff controversy is to be sketched in its bearing on the development of economic theory at large, it would be well to note the striking evidence of Ricardian

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influence in the speeches of many of the Southern congressmen in the decade from 1820 to 1830. In general, the later part of his period is covered by Dr. Elliott much less fully than the earlier: he seems to have found himself unable to maintain the pace at which he started.

In speaking of those who advocate international free trade as "*laissez-faire* champions," Dr. Elliott seems to fall into a mistake, — perhaps, rather, a mistaken attitude, — for which he has indeed not a few respectable precedents, but which is none the less a mistake. The reasoning on which it is argued that protective duties are inexpedient is in many essentials different from that by which it is sought to prove that government interference is bad. And certainly when Dr. Elliott tells us that "Madison had little conception of *laissez faire* as a principle of economic life, and in its application stopped far short of the school of Ricardo and Mill," we suspect he has not read his Ricardo with care, and feel sure he has not mastered his Mill.

F. W. TAUSSIG.

Die Kolonization und die Agrarverfassung der Insel Nantucket im 17. und 18. Jahrhundert. Von A. SARTORIUS VON WALTERSHAUSEN. Abdruck aus den Jahrbüchern für Nationalökonomie und Statistik. Jena, Gustav Fischer, 1892. — 8vo, 23 pp.

It will doubtless strike the American reader as strange to find in the German *Annals of Political Economy* a detailed account of the economic development of one of our small New England islands. Dr. von Waltershausen, however, claims a widespread interest for this bit of American history, especially among the Germans, as he finds here in Nantucket an agricultural development almost identical with that carried out centuries before in Europe by the German peasant settlers.

In the southeast corner of Nantucket a small band of English colonists from Massachusetts, having obtained by purchase the exclusive right to acquire land upon the island from its resident Indians, established, according to Dr. von Waltershausen's account, their original settlement and began to colonize the land according to a method of their own. First, they divided their joint rights to the island into twenty-seven shares and apportioned these shares, or "home lots," among themselves, granting to each shareholder, however, full power of disposition over his lot, even to the extent of alienation or subdivision. Next, they proceeded to organize them-

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selves into a village community, assigning to each shareholder individually enough land within the village for his dwelling-house and garden. Then by joint labor they redeemed as much waste land round about their village as they needed for agricultural purposes. Having prepared this tract roughly for the seed, they then subdivided it into strips, allotting to each shareholder one such strip to cultivate, not as he would, however, but according to certain strict rules drawn up by the village assembly. Finally, as common pasturage for their flocks — their so-called "sheep and cow commons" — they used all the rest of the land which they acquired from the Indians.

Crèvecœur, the only other writer who seems to have gone into the subject, accounts for this peculiar method of colonization by asserting that the early settlers of Nantucket, finding the land but ill adapted to agriculture, looked to the sea as the source of their livelihood and became at first fishermen, not farmers. All they needed then for their comfort were their village homes and gardens; and when later they began to turn somewhat to agriculture and cattle-raising, they simply did not deem it worth their while to allot the land in severalty, since there was so much of it open to occupation around them, and there were no trees available for the hedge-boundaries which a system of individual allotment would entail.

Dr. von Waltershausen takes direct issue with Crèvecœur, however, on this point. He proves very conclusively that the first settlers of Nantucket were not, as Crèvecœur seems hastily to have assumed, the fishermen who in the year 1772 settled about the village of Sherburn, in the north, but the colonists from Massachusetts, who settled in the south. These colonists, von Waltershausen shows, took up farming and herding as their means of livelihood from the outset, finding fertile land and plenty of trees for houses and hedges.

What then was the cause of this somewhat un-American form of colonization in Nantucket? Dr. von Waltershausen answers the question as follows: The little band of colonists, drawn together by common religious ties, found themselves alone and unprotected on the island. Over against them stood their common enemy, the Indians, from whom they must gain their land in the first place, and continually defend it thereafter. Behind them was no such advance of eastern culture as was supporting the farmer on the mainland while he pushed out toward the west. Finding their difficulties too great to be coped with singly, the Nantucket settlers were, in a word, forced by the very nature of things, according to the author,

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to band together in their village community and hold their land in common. Their system of cattle raising, further, was also extensive. For this they needed land and shepherds, and as neither pasture land nor shepherds to tend the flocks were plentiful enough at this early time to allow any extended system of private ownership, they included this land also under their system of common ownership.

So, like Crèvecoeur, Dr. von Waltershausen accounts for the peculiar institutions of Nantucket by the nature of their surroundings. He gives us a theory which is adequate indeed to explain these singular conditions; but to my mind the connection between his theory and the facts of this particular case is not removed from the realm of mere conjecture.

The author employs the closing pages of his concise little monograph in showing how the present system of individual ownership on the island has gradually superseded the old form during the course of the present century. The change has been brought about naturally, first through the growth of numbers, and secondly through the gradual transition from extensive to intensive agriculture and herding. The original twenty-seven shares, as a matter of fact, came finally for the most part into the hands of a few wealthy sheep raisers, who had long since found agriculture unprofitable. Feeling shackled by the old village rules of herding, these latter-day shareholders by mutual agreement then shook themselves free from their bonds, transformed each "home lot" into a right to the soil itself and began to pursue each his own way in caring for his flocks, to the utter destruction, however, of all rights of common still held by many of their poorer neighbors.

Students of America's economic growth will be grateful to Dr. von Waltershausen for bringing to light this most instructive bit of our history. The only disappointment one feels is that the author has not carried out to greater length his comparison between this peculiar American colonization and the earlier settlement of the German peasants. Can we not here in Nantucket follow along the lines of investigation taken up by Hanssen and Knapp in Germany? Is not, in short, our Nantucket village community the counterpart of the *Dorfgenossenschaft* of the German freemen? The arable land of Nantucket, held in common by the colonists and tilled according to village rules, seems also to correspond very closely with the *Flur* and *Flurzwang* of the early German agriculturists; and we may even go so far as to liken the sheep and cow commons of Nantucket to the extended *gemeine Weide* of the old German *Markgenossenschaft*.

LINDLEY M. KEASBEY.

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The Growth of English Industry and Commerce in Modern Times. By W. CUNNINGHAM, D.D. Cambridge: at the University Press, 1892. — 771 pp.

Just a couple of years after the appearance of his first volume, Mr. Cunningham's untiring energy has produced the second and concluding part of his important treatise. Upon its title page appears for the first time, after the author's name, the title "Tooke Professor in King's College, London"; so that we are able to congratulate him both upon the completion of his literary task, and upon the attainment of a position from which he can in future exercise an independent influence upon economic teaching in England. It is an influence which will assuredly be salutary.

I need not repeat what I have already said (POLITICAL SCIENCE QUARTERLY, vol. vi, page 152) of the general character of Professor Cunningham's work. His breadth of treatment is even more apparent in the second volume: it becomes encyclopædic. From the wide movements of finance to the *minutiæ* of rural economy and manufacturing processes, from Ireland to India, from the sins of the Puritans to the virtues of Ricardo, our author passes with confidence and a never-ceasing supply of information:

> And still we gaze, and still the wonder [grows]
> That one small head should carry all he [knows].

Much of it has, no doubt, been "journey-work"; Mr. Cunningham cannot be equally interested in every part of his wide field. But it is everywhere the production of a man of sagacity and independence. Even where we least agree, Mr. Cunningham is stimulating; and where he is interested, he gives us excellent matter.

His treatment of the period from 1776 to 1815 (pages 442–573) is on the whole, I think, the best it has yet received. It will not indeed altogether supplant Held and Toynbee, for reasons to be given later; but it rests on a wider basis of knowledge than was possessed by either of these two writers, and it touches more sides of the economic life of the time. I would call especial attention to his comparison of industrial conditions under the domestic system with those under the factory system (pages 467–475). Mr. Cunningham believes, and with justice, that the position of the workpeople before the introduction of machinery has been depicted in colors far too bright. He concludes with the remark that

> if we compare the factory hand of the present day with the domestic worker

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as he really was in the eighteenth century, it is hard to point out any characteristic trait or any single circumstance in which he has really suffered.

I am inclined to think that this will bear a little further arguing; but Mr. Cunningham's opinion points in the right direction. His account, again, of the administration of the poor-law during the same period is particularly well worth reading: he shows that the policy of the "Speenhamland Act," most mischievous as it undoubtedly was, had more apparent justification than we are wont to think; and he has called attention to an "allotment movement" which has been almost forgotten by English politicians.

Another admirable feature in the work is the attention given to unremembered writers. With Mr. Cunningham's account of Massie (pages 384 *et seq.*, 426 *et seq.*), the historian of economic literature may indeed say that "a new planet swims into his ken"; and — among stars of lesser magnitude — Governor Pownall will interest American readers in his unexpected rôle as critic of Adam Smith.

But while this volume is of more general interest than its predecessor, and will add to Mr. Cunningham's reputation as a writer of wide learning and vigorous originality, it can hardly be denied that the weaknesses of his method of treatment are even more apparent. He remarks in his Introduction that the "range" of his theme "is so wide, the complexity so great" that "we cannot begin our task until we have settled on some principle of selection" (page 3); and his main principle would seem to be that "as we are concerned with growth, and all growth means change, we must concentrate our attention on the beginning of each change" (page 5). Accordingly we are throughout confronted with details of new projects, new manufactures, new legislation. There is little description of the broad features of the industrial organization of each period; little attempt to disentangle the larger and more stable conditions from the minor and temporary. We are told *ad nauseam* of the attempts of the government to control this or that industry, and we are left with a very imperfect vision of what the industry was which they desired to control. Thus the narrative, to any one who sits down to read fifty pages of it at a time, creates a sense of confusion, an impression of perpetual flux, which is probably far from the truth.

Then, again, Mr. Cunningham confines his attention almost exclusively to England. I do not think any one would gather from this volume, what was certainly the case, that the economic experience of England was substantially the same as that of the rest of Western Europe. Of course England was more successful in

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some directions than other nations, largely owing to natural advantages: but for this greater success, it would never have obtained its commercial and industrial supremacy. But to understand why England stood out from among the rest of the nations, it is necessary to realize what was the level of industrial and commercial organization and of governmental action which was common to it and to them. This is a reflection which has been suggested by Mr. Cunningham's omitting to deal at all adequately with the Mercantile System as a body of regulations and concrete conditions; but the same weakness is apparent in his treatment of opinion. Thus he gives us a chapter on "Economic Doctrine in the period 1689–1776," in which the Physiocrats are only mentioned incidentally and allusively — only in so far, indeed, as they were criticised in one point by Adam Smith. It may be desirable to be sometimes insular; but when one is insular, one is a little apt to miss the true proportions of things.

The reader of the book requires one final caution. Mr. Cunningham has worked with exceeding rapidity; but like most other very rapid workers he not infrequently makes slips. If one wants to study at all minutely any particular period, Mr. Cunningham's references will sometimes be the better for a little verification. This is particularly the case with the acts of Parliament on which he lays so great a stress; here it sometimes looks as if our author trusted a little too much to his first hasty impressions.

Mr. Cunningham's aim has been an ambitious one; and he has met with no small measure of success. But it was a task which in the nature of things no one man could hope to accomplish quite satisfactorily, in the space of a few years, by his own unaided efforts. The field is to a large extent an unworked one; in every direction Mr. Cunningham has been obliged to push out alone; so that it has been impossible for him to do more than indicate what it is that needs investigation, and to lay before us provisional conclusions. But to the small but growing body of students who are interested in economic history, it is of the utmost service that a competent scholar should have sketched out for them a rough plan of the area to be examined, should have drawn up a programme to guide their labors. This is what Mr. Cunningham has done by his two volumes; and it is a service which altogether obscures the well-nigh necessary defects in the performance.

W. J. Ashley.

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Histoire du Commerce du Monde. Par OCTAVE NOËL. Temps Anciens — Moyen Age. Paris, Librairie Plon, 1891.— 4to, 332 pp.

The purpose of the author of this work is evidently to publish in two volumes a convenient outline of the history of the commerce of the world. In the present volume he reviews the development of trade in Egypt and the early monarchies of southwestern Asia, dwelling on means of communication, routes of trade, commodities, and the traffic which all those states carried on with India. Then, as in all later times, the world's commerce consisted largely in the exchange of the products of the remote East for those of the Western peoples. It was carried on along isothermal lines. The Phœnicians, the greatest navigators of antiquity, brought all the coasts of the Mediterranean within this circle of relations, and so laid the foundation of the commercial system of later antiquity. M. Noël dwells appreciatively on their skill in locating trading posts, and on the encouragement they gave to the free development of the natives among whom they settled. The Greeks, though not improving upon the methods of the Phœnicians, opened up the western Mediterranean more fully, while through the conquests of Alexander a closer connection with India was established. The great contributions of Rome to the progress of the world's commerce were the building of her incomparable roads and the maintenance of peace for more than two centuries. By taking advantage of the monsoons, the periodical recurrence of which was discovered about the middle of the first century, navigation to India was greatly facilitated. Following Mommsen, M. Noël calls attention to the systematic debasement of the coinage by the emperors of the third century, and attributes much importance to this, and the consequent hoarding of treasure, as a cause of the economic collapse which followed.

In the history of mediæval commerce the author dwells on the importance of the conquest of northern Africa and Spain by the Arabs. By this the East was brought into closer contact with the West. Recent investigations have shown that throughout the Middle Age the Italian cities carried on a flourishing trade not only with Spain but with northern Africa. Treaties were concluded for its regulation, and it formed a part of the revived commercial activity which was occasioned by the Crusades. The origin of consulships and of commercial codes are of course referred to in this connection. M. Noël necessarily describes at some length the enterprises and policy of Venice, Geneva, Pisa and Florence; of the French cities,

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particularly Marseilles and Montpellier; of the Flemish cities and of the Hansa. He gives a specially interesting account of the fairs held in Champagne. So far as the East is concerned, he shows that after the close of the Crusades the island of Cyprus, then ruled by princes of the house of Lusignan, became the chief center of trade. At its capital, Famagusta, the great cities of Italy, France and Spain had their quarters, and to it came merchants from all parts of the Orient. The statement is made that in the fourteenth century it exceeded in importance either Constantinople or Venice. The comparative unimportance of English trade during the Middle Age is referred to, while attention is called to the early growth of trading companies (that of the Steel Yard, the Merchants of the Staple, the Lombards, *etc.*), and the appearance of a strongly exclusive national spirit in that country. The commercial history of the period closes with the occupation of the eastern coasts of the Mediterranean by the Turks. Communication with the Orient was thus cut off and the trade of Venice began to decline. It was necessary to seek another route to the East Indies, and already the Portuguese were reaching out toward the south with some such purpose in view. When their object was accomplished, and the Spanish opened the way to the New World, the modern era in the history of commerce began.

In the preparation of this work M. Noël has confined himself almost exclusively to secondary authorities. He has summarized existing knowledge. But he has done it in a pleasing way, and has produced a useful book. It contains several plates and elaborate maps.

HERBERT L. OSGOOD.

England and Rome. A History of the Relations between the Papacy and the English State and Church from the Norman Conquest to the Revolution of 1688. By T. DUNBAR INGRAM, LL.D. London and New York, Longmans, Green & Co., 1892. — 430 pp.

The question, how far is the Church of England old and how far is she new, has been discussed often and at length. Was the papal supremacy over England during the Middle Age anything more than an idea, an empty claim? Was it successfully asserted, or did the national will ever submit to it? Was the church of Henry VIII and Elizabeth essentially different from the church of Alfred, of Henry II, of Edward III? English lawyers, whether in preambles to

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statutes or in decisions from the bench, have usually answered these questions in the negative. This is the trend of Coke's argument in the *Institutes*, while the mediæval lawyers strongly affirmed national independence. This in fact they did throughout Europe. In the preamble to Elizabeth's Act of Supremacy it was declared to be a statute "restoring to the crown the ancient jurisdiction over the state, ecclesiastical and spiritual." In the famous Caudrey's Case (Coke's Reports, pt. v.) the judges made an elaborate attempt to support this view by historic evidence. English church historians have adopted much the same line of argument, while Mr. Gladstone has repeatedly affirmed that schism did not begin in England till after Pope Pius V published his bull deposing Elizabeth (1570).

Mr. Ingram's book is apparently an effort to prove Mr. Gladstone's proposition. When discussing Irish history the two are far from an agreement, but when it comes to the English Church they are — or used to be — harmonious. Mr. Ingram discusses the subject throughout in a narrow legal spirit, as if he held a brief from the Anglican against the Catholic. What Stubbs and other investigators have proved as to the national independence of the Anglo-Saxon Church he claims to be true of the centuries which followed the proclamation of universal papal supremacy. But he goes even farther than they when he affirms (page 13) that there were no separate ecclesiastical courts prior to the Conquest. He admits that during the anarchy of Stephen's reign and the period from the submission of John to the death of Henry III, the church was subject to the papacy; but the events of those years he excludes from the list of valid precedents. He reviews the history at length for the purpose of showing that no legate *a latere* was allowed to enter England except with the permission of the king and after giving assurance that he would attempt nothing contrary to the royal will; that, except in testamentary and matrimonial cases, no appeals to Rome, strictly speaking, were permitted without the consent of the king; that in the holding of councils, in appointments and translations, the church and crown were equally independent of the papacy. He lays great stress on the letters of Paschal II, which affirm that during the reign of Henry I appeals were not allowed and there was little intercourse with Rome. Still there is evidence that legates published canons in England even during this reign. He makes much of the Hackington case, of which Gervase of Canterbury gives so long an account, in order to show that after

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Henry II, in consequence of his reconciliation with the pope in 1172, had partially abandoned the Constitutions of Clarendon, appeals were not allowed and legates were not admitted. He will not allow that the decrees of popes and councils ever had force in England unless they were accepted by the kings (page 63). He believes the success of the anti-papal legislation of the fourteenth century — the Statutes of Provisors and Praemunire — to have been so great, that thenceforward the influence exerted by the pope in England was "a purely moral one, due to the respect felt for him as spiritual head of the church." Throughout this and his subsequent discussion Mr. Ingram holds consistently to the distinction between ecclesiastical and spiritual supremacy. He simply contends that the king exercised the former, while control in faith and morals, enforced by church censures alone, was left to the popes and the clergy.

Coming to the sixteenth century, Mr. Ingram argues that Henry VIII aimed only to assert to the full the ecclesiastical supremacy which his predecessors had enjoyed. In order to maintain his strictly legal view, the author makes the events of that reign hinge not upon the divorce, but upon the alleged encroachments of Wolsey, as papal legate, on the liberties of the church. Following the Calendars of State Papers, he lays great stress on the fact that at the desire of the king the powers which legates exercised *de jure* were withheld both from Wolsey and Campeggio in the bull of 1518. Then, ignoring entirely the bulls of succeeding years, which prolonged the exclusive legatine authority of Wolsey and expanded it to unexampled fullness (Rymer, XIII, pp. 734, 739; XIV, 239, 240, 241, 243 *et seq.*, 291), Mr. Ingram asserts that the cardinal

> never had a special commission from the pope such as was granted to legates *a latere*, except when, at the end of his career . . . , he was appointed conjointly with Campeggio to hear and determine in England the case of Henry's marriage. [Page 149.]

Furthermore, no mention is made of the fact, which appears in the text of the decrees themselves, that the powers exercised by Wolsey between 1521 and 1529 were bestowed at the intercession of the king.

After having used the authorities in this way, it is comparatively easy for Mr. Ingram to make it appear that Wolsey grossly violated the Statutes of Provisors and Praemunire and that his punishment was just. That, according to his view, is all there was of it. The articles of the indictment express the whole truth. Mr. Ingram does not consider the divorce an element of any weight

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in the question. He is consistent in making only a brief reference to it. The virtuous king, who has been sitting idly by while for a decade his chief minister was grossly violating some of the most important statutes of the realm and oppressing the subjects, suddenly realizes what has been going on, brings the minister to justice, includes the whole body of the clergy in guilt with him because they had tolerated the encroachment, and reassumes the full ecclesiastical authority. The church remained orthodox. Under such treatment the English reformation becomes easy to understand, but it loses most of its meaning, and the king all that is characteristic in his personality.

Soon after the commencement of Elizabeth's reign the popes began what the author calls their "thirty years' war against England." During this they labored by every mode of open and covert attack to destroy the queen and her supporters. Mr. Ingram goes at length into the history of the conspiracies of that period, for the purpose of showing that it was these which destroyed the papal sentiment in England, prevented it from sharing in the Catholic revival, and made the nation permanently Protestant. The ruin of the Catholics in England was completed by the insistence of the popes throughout the seventeenth century upon their power to depose princes and by their refusal to allow Catholics to swear allegiance to Protestant sovereigns. The way was opened for relief acts only when in 1778 the English Catholics acknowledged the title of the House of Hanover to the crown and declared their "unalterable attachment to the cause and welfare of this our common country." In his treatment of this part of the subject the author's statements will meet with more general assent.

Insistence upon the strength of national feeling as opposed to extreme papal claims is justifiable in treating of the history of mediæval England. The best of the kings shared in and encouraged it. But their will was often thwarted or ignored. Many of the monarchs acted in collusion with the popes, thus nullifying the effect of the anti-papal legislation. This clearly appears in the history of the Statutes of Provisors and Praemunire. There was an interlacing of jurisdictions which was both important and characteristic of the age. Relations were not as clear cut as Mr. Ingram would have us believe, and this becomes evident as soon as one goes behind the mere words of the statute or dictum of the judge, and studies the real life of the clergy.

HERBERT L. OSGOOD.

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The Discovery of America, with some Account of Ancient America, and the Spanish Conquest. By JOHN FISKE. Two Volumes. Boston and New York, Houghton, Mifflin & Co., 1892. — 516, 631 pp.

These volumes, both from the nature of their contents and from the large number of readers they have reached and will influence, must be considered as among the most remarkable of the Columbian anniversary year. The point of especial significance is that they are thoroughly imbued with the modern scientific spirit and with the doctrine of evolution. The works of Irving and Prescott, which alone compare with Mr. Fiske's in measure of popular success, described primitive America before *The Origin of Species* was published. So far as I am aware, this is the first general narrative history to treat of early American peoples from the vantage ground of the theory of evolution. Thousands of people will receive from these volumes a profound impression of the new light thereby cast upon old problems and of the new and varied interest imparted into the discussion of many questions hitherto esteemed of little importance. Formerly the manners and customs of the aborigines were subjects of curious study, but they could not be effectively correlated in a science of man. For Mr. Fiske's readers they become an intensely interesting revelation of the past life of the race at a stage of culture which has left only faint and obscure memorials in the Old World. In the study of classical and Hebrew antiquity we meet with odd bits of ritual, traces of obsolete customs, fading lines of social organization, survivals of many kinds which almost baffle explanation. Ancient America throws a flood of light on these matters, for there people were found, as we now know, living in a stage of culture in which these puzzling features of social life originated — a stage which the Greeks and Israelites had left behind them when their ascertained history begins. Mr. Fiske's opening chapter offers him the fullest opportunity to display the significance of the social and religious customs of the aborigines, and the results are laid before the reader with startling clearness. In the main they may be accepted, but as regards details some critical reserve is necessary. Mr. Fiske writes of palæolithic man, and especially of the so-called palæoliths, in a tone of greater certainty than he would use to-day, or than it would be safe to use considering the dubious nature of much of the evidence.

Mr. Fiske's treatment of the Northmen question is a most admir-

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able piece of historical discussion, amply learned, critical, but not too skeptical, and pervaded with an atmosphere of sound common sense. In regard to the Zeni however, his conclusions will prove less acceptable. The tide of opinion seems to be turning against the authenticity of their voyages.

The third chapter traces the growth of intercourse between Europe and the East and is full of interest. The portion on mediæval trade might with advantage have been somewhat expanded. The mass of appropriate material contained in Heyd's *Geschichte der Levantehandels*, a rich mine of information on that phase of mediæval life, seems to have escaped Mr. Fiske's notice.

The chapter on "The Search for the Indies" opens with a skilful exposition of the theoretical difficulties confronting exploration, owing to false geographical ideas. This is followed by an excellent account of the work of Prince Henry the Navigator. Mr. Fiske decides that the first papal grant to Portugal of possession of her newly discovered lands was by Eugene IV in 1442, instead of by Martin V, as stated by Las Casas and Barros. The bull of Eugene IV is cited in Raynaldus and by Azurara (*Chronica do Descobrimento e Conquista de Guiné*, pp. 90–92). It was a grant of indulgences, not of territory, to those prosecuting the discoveries. Leo X, in his bull of 1514, which confirmed previous bulls, refers to bulls of Martin V and Eugene IV granting permission to trade with the Saracens, but apparently not bestowing any territory. The bull of Nicholas V (1452) is the earliest one cited by Leo as having granted territory.

In contrast with the opinion of Eratosthenes that the Atlantic was very broad, Mr. Fiske cites Seneca as holding the view that it could be crossed in a few days' sail. It seems to me that this inference is unwarranted by the context, which reads as follows:

> Sursum ingentia spatia sunt, in quorum possessionem animus admittitur . . . . tunc contemnit domicilii prioris angustias. Quantum enim est quod ab ultimis litoribus Hispaniae usque ad Indos jacet? Paucissimorum dierum spatium, si navem suus ventus implevit. At illa regio caelestis per triginta annos velocissimo sideri viam praestat. . . .

The passage is purely rhetorical, comparing the smallness of the earth with the realm of mind, but saying nothing positive as regards the size of the earth. "Paucissimorum dierum," as contrasted with thirty years, might mean indifferently thirty, sixty or ninety days. But does it refer at all to a voyage across the Atlantic? Is not

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the true meaning this: The longest journey man can take, from farthest west to farthest east, is a voyage of a very few days compared with the spaces of the heavenly region? The fact that such a voyage would be broken by a land passage of a day or two at Suez does not seem to exclude this otherwise perfectly natural interpretation.

On pages 419–420, in presenting a calculation of the cost of the first voyage of Columbus, Mr. Fiske is misled by Harrisse. Las Casas says that the eighth part raised by Columbus was 500,000 maravedis. Harrisse estimates that 1,000,000 maravedis were equal to about $59,000, "at present values." This gives a total cost of $236,000 — a conclusion which Mr. Fiske's sound critical judgment mistrusts, and he is inclined to reject the figures of Las Casas. The difficulty, however, lies in the excessively high valuation assigned to the maravedi. In 1529 Charles V sold his claim to the Moluccas to Portugal for 350,000 ducats, and stipulated that the ducats should be rated at 375 maravedis each. According to Cibrario's tables (*Economia Politica del Medio Evo*, II, 199) the ducat in 1529 had a specie value of 12.36 francs, or about $2.34. This would give not quite six and one-third mills ($0.0063) as the value of a maravedi. On this basis the total cost of the expedition would reach $25,200, an ample sum considering the purchasing power of money.

In discussing the Bull of Demarcation, Mr. Fiske suggests that the origin of the pope's claim to Apostolic authority for giving away kingdoms is closely connected with the fictitious Donation of Constantine. This is no doubt true as regards territory within the bounds of Constantine's empire; but the right to bestow the possessions of heathen upon Christian princes was more naturally based upon the passage in Psalms ii. 8: "Ask of me, and I shall give the heathen for thine inheritance and the uttermost parts of the earth for thy possession," *etc.* Boniface VIII based his assertions of the headship of the world, as expressed in the bulls *Ausculta fili* and *Unam Sanctam*, on Jer. i. 10.

On page 515 Mr. Fiske says: "At no time during the life of Columbus, nor for some years after his death, did anybody use the phrase 'New World' with conscious reference to his discoveries." This statement emphasizes an important phase of the geographical conceptions of the time, but it is not absolutely true. Peter Martyr, in 1494, begins the second letter of his first decade: "Repetis, Illustrissime Princeps, cupere te quae accidunt in Hispania de novo orbe cognoscere."

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In a very thorough and careful review of the whole question of the disputed first voyage of Vespucci in 1497, Mr. Fiske makes out a strong case for accepting it as genuine. Harrisse, in his recent work, *The Discovery of North America*, takes a neutral position, but is apparently somewhat disposed to accept the first voyage.

The very lucid account of the naming of America omits one or two points of interest. The first is that Waldseemueller suggested two names: (1) Amerige ("*Amerige quasi Americi terra*"; *i.e. Ameri* for Americi, and *ge*, Greek for land) that is, Americ's Land; and (2) America, the feminine form of Americus. In the second place, of the two forms, Waldseemueller distinctly preferred the clumsy Greek-Latin compound "Amerige" to the euphonious America. This is indicated by the fact that opposite one of the passages suggesting the names, we find the marginal title Amerige instead of America. (See fac-simile in Winsor's *Narrative and Critical History*, II, 168). Finally, one or two other geographers had the same preference. Schöner, in 1515, in his *Luculentissima quaedam Terrae Totius Descriptio, etc.* c. xi. fol. 6o, writes "*America sive Amerigen*," *novus mundus, etc.* (Payne, *New World*, p. 211); and Nicolini de Sabio, in his edition of the *Cosmographiae Introductio* (Venice, 1535) indicates his preference for Amerige over América (Marcou, *Nouvelles Recherches*, p. 44).

Mr. Fiske's treatment of Columbus is sympathetic. Columbus as a man needs sympathetic treatment to secure simple justice. The true historical student has no desire to gloss over his faults; his object is the truth, but the truth set forth in proper proportions. He wants to get at the man as he was. Columbus had a large element of religious enthusiasm in him; he was a crusader after the crusades were dead; he saw visions and regarded himself as an instrument in the hands of God for bringing great changes to pass; his writings, especially towards the end of his life, become mystical and prophetic in tone. For all these things the nineteenth-century mind has little sympathy or patience. To pronounce a just judgment on Columbus therefore requires a mind both tolerant and sympathetic, finely discriminating and capable of fully appreciating in its historical setting the prophetic temperament.

The *Discovery of America* is a fitting introduction to American history. Its thorough and conscientious scholarship and its engaging style make it appeal alike to scholars and to the general reader, while the broad scientific thought pervading it marks it as a characteristic and significant product of the influence of Darwinism upon historical research.

EDWARD G. BOURNE.

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The Constitutional and Political History of the United States. By Dr. H. von Holst. Translated from the German by John J. Lalor. 1859–1861: Harper's Ferry–Lincoln's Inauguration. Chicago, Callaghan & Co., 1892. — v, 459 pp.

This is the final volume of a work that has had and will have in the future a most profound influence on historical scholarship in America. Whether accepting or rejecting Professor von Holst's conclusions, American scholars must admit that he has placed the discussion of our constitutional development on a very high plane. It is the belief of the reviewer, as of probably a majority of American students of our history, that the author's interpretation of that history, so far as the slavery question is concerned, is radically wrong. A demonstration of this belief will require research more extensive, philosophy more profound, a dialectic no less subtle and moral earnestness no less sincere than that revealed in Professor von Holst's volumes. That these qualities will in time be forthcoming, there can be little doubt; to have stimulated their manifestation will be the author's highest glory.

The present volume consists essentially of four groups of essays on incidents occurring between October, 1859, and March 4, 1861. The subjects considered are Helper's *Impending Crisis* and John Brown's raid, the party conventions and the elections of 1860, the errors of Republicans and Secessionists in reference to the probable effects of secession, and finally the attitude of Buchanan's administration and Congress on the withdrawal of the Southern states.

As to Helper's book and the Republican endorsement of it for campaign purposes, the author's judgment is somewhat of a surprise. His ingenuity in justifying anti-slavery manœuvres and in saddling responsibility for all our woes upon the slavocracy has been so conspicuous, that the reader is unprepared for such an opinion as this:

> The recommendation of it [Helper's book] . . . by sixty-eight Republican representatives . . . was unquestionably an aggressive intermeddling in the domestic affairs of the slave states, whether they so intended it or not.

It is quite certain, however, that the final clause, which aims to save the virtue of the Congressmen at the expense of their intelligence, would not have appeared if they had been slavocrats.

Professor von Holst's view of John Brown and the Harper's Ferry incident are already familiar through a separate monograph (reviewed

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in this QUARTERLY, vol. iv, p. 322). He regrets in a foot-note an apparent tendency away from the Abolitionist and war-time conception of Brown and his work, and feels confident that deep research will always confirm the apotheosis of Brown which is transferred from contemporaneous anti-slavery publications to the author's text. A necessary support of the moral-martyr view of Brown is the explanation of Southern feeling after Harper's Ferry that is embodied in the following passages :

> The stroke had been dealt by not quite two dozen men; . . . it was a blow in the air . . . ; and yet the news of the occurrence had made the blood rush back to the hearts of these millions, who, in personal courage, stood second to no people on earth, as quickly as would the sudden appearance of some monstrous danger. Such an effect from such a cause can be explained only on the supposition that John Brown's act had sounded an alarm in every conscience that awakened it from its sleep. . .
>
> [The South's] momentary involuntary terror was an annihilating condemnation of that institution [slavery].

Some months ago much less than "two dozen men" — in fact a single individual — appeared in the office of a wealthy New Yorker and made a demand based on a view that private property in movables was immoral. On refusal of his demand, he dropped a dynamite bomb and destroyed several lives, including his own, and considerable property. "It was a blow in the air," so far as the institution of private property was concerned; and yet a thrill of terror ran through the hearts of hundreds of thousands of property owners of the utmost personal courage. The future historian, after a diligent perusal of the Anarchistic press of the day, will doubtless explain "such an effect from such a cause" as due solely to the awakening of conscience in the guilty owner of property, and the involuntary terror as "an annihilating condemnation of the institution."

The chapters touching the party conventions are characteristically lacking in any connected narrative of events, and at the same time characteristically rich in suggestions drawn from the study of episodes ordinarily left hidden in the shadow of the great spectacular incidents with which the period is crowded. While Professor von Holst perhaps overestimates at times the importance of Congressional debates, it cannot be denied that he has a marvelous faculty for tracing the play of political forces in the legislative activity of political leaders. Several instances occur in this volume where incidents in Congress, hitherto slightly regarded, are made to

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throw very considerable light on the affairs of the time in the field of party politics.

Douglas, of course, continues in this volume to be the author's heavy villain. The Illinois senator's motion and speech in the Senate looking to some measure for protecting a state against conspiracies and invasions like John Brown's, are declared by Professor von Holst to constitute "a monument of infamy, compared with which the Kansas-Nebraska Bill scarcely deserves to be mentioned." Only those who have read the professor's account of the bill in question can fully appreciate the plight to which the unfortunate senator is reduced by this comparison.

In his seventh and eighth chapters the author treats of the wrong calculations of Republicans and Secessionists respectively, in the doubtful time following Lincoln's election. Here the author is at his best, and, keeping more or less in the background his Abolitionist sympathies, he presents an admirable summary of the excited thinking of the period. There is of course an underlying tone of suggestion that Republican errors were the natural outgrowth of noble aspirations, while the degrading influence of slavery was largely responsible for the mistakes of the Secessionists. So on pages 273 and 274 we are treated to a contrast of the "Puritanic glow of conviction" which characterized the Northern clergy, with the "coarse Biblical learning" and the "fanaticism" which were displayed in the Southern churches. But apart from such characteristic vagaries of the author, the fallacious estimates placed by each of the sections on the moral spirit, the political tenacity and the economic resources of the other are most fairly and philosophically considered. In speaking of the reliance which the Southern leaders placed upon slave labor in enabling them to put their whole white male population under arms, Professor von Holst does not notice how inconsistent this is with his theory, made so prominent in other parts of his work, that the South spent a large part of its time shuddering at the possibility of a servile insurrection. He does not make it appear that this possibility entered at all into the calculations of the Secessionists.

The concluding chapters of Professor von Holst's work are, it must be said, rather dreary. That devoted to "Buchanan and the Non-Coercion Doctrine" includes a long-winded polemic against Attorney-General Black's constitutional law, and against Buchanan's character and conduct in general, and his biographer's defence of him in particular. On the question of constitutional law, the pro-

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fessor is ingenious and, assuming with him that the constitution was national in origin and essence, he is triumphant. But Black and Buchanan started from a wholly different assumption. As to the president's actual conduct, it is not difficult to prove that he was lacking in resolution. But the author makes no allusion to an important element of weakness in his position. A combination of Secessionists and Republicans in Congress could have impeached him. That a successful use of force against the South would have precipitated a movement in this direction, can scarcely be doubted. The general attitude of the Republicans certainly gave no assurance that they would not join such an enterprise, and in view of the prevailing incredulity as to the South's earnestness in withdrawing, Northern public sentiment could not be depended upon to sustain the president. There surely was something in these considerations to justify a naturally timid and peace-loving executive in staving off decisive action.

It is an unpleasant duty of the reviewer to call attention now, as was done a dozen years ago, to the unworthy dress in which the American translation of this great work appears. Paper and margins in this volume, as in its predecessors, are all that could be desired; typography and proof-reading are only less wretched than hitherto. The "scarcely vested threats" on page 27 compares very well with the "semi-lateral contract" of a former volume.

WM. A. DUNNING.

La Femme au point de vue du Droit Public. Étude d'histoire et de législation comparée. Par M. OSTROGORSKI. Ouvrage couronné par la Faculté de Droit de Paris. Paris, Arthur Rousseau, 1892.—8vo., 198 pp.

In M. Ostrogorski's discussion of the position of women in local self-government, published in this QUARTERLY a little more than a year ago (volume vi, page 677), a fuller survey of women's rights at public law was announced, and the present volume redeems the promise. The rights of women to the throne and to the regency under monarchic systems of government; their admission to political suffrage and their capacity to hold political office; the part given them in local self-government and in the purely administrative services of the state,—all these topics are examined from the historical and the comparative points of view. In the last two chapters the author considers, under the head of "individual public

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rights," the legal capacity of women to petition the legislature, to form or take part in associations, to conduct newspapers, to study and to teach, and to enter the liberal professions — all matters of public law in European continental legislations, at least — and, under the caption "quasi-public rights attached to civil capacity," the right of women to act as guardians and as formal or "solemn" witnesses to documents of a public or quasi-public character.

The historical portion of M. Ostrogorski's work, though admirably done, is merely introductory to the examination and comparison of existing laws. His book is primarily and principally a study in comparative legislation, and it is a model of its kind. Not only are the laws of all the civilized states of the modern world considered, but they are elucidated by citations from debates, parliamentary reports and judicial decisions. Nor has the author confined himself to a simple collection of material. He has really compared the laws which he brings together. He has indicated how far the tendencies of modern legislations are in harmony and in what points the laws of the different states diverge. He has done even more than this: he has endeavored to formulate the ultimate principles upon which the existing harmony is based and to explain the divergencies. His work becomes, therefore, a contribution to inductive social philosophy.

It is for this last reason particularly that I term M. Ostrogorski's work a model of its kind. Just as the comparative study of early institutions and customs on the one hand, and that of legal history on the other, afford the clearest insight into the primitive consciousness of our race and the changing phases of its evolution, so the comparison of modern legislations gives us the most authentic evidence of the existing consciousness of civilized mankind; and the interpretation of that consciousness is one of the most important functions of modern sociology.

What then is the common sense of the world regarding the political powers so often claimed for women on the basis of natural right? With the chief conclusions of M. Ostrogorski the readers of the QUARTERLY are already familiar. In spite of the marked tendency of modern law to emancipate women from all purely civil disabilities, he finds no serious inclination to clothe her with political power. Wherever women have occupied thrones or exercised the powers of regency, their right has sprung from a confusion of the principles of public and private law, from the application to a political office of the rules of feudal law, *i.e.* of property law. In proportion as this confusion has disappeared, the tendency has been to

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restrict the right of women to exercise monarchic power. What remains is a survival, explicable largely by the decrease of royal authority. Wherever, in earlier times, women voted for representatives in diets, estates-general or parliaments, it was because the right to vote attached to property. Their participation in communal affairs rested on the same ground. It was not the human being that voted and was represented, but the land. In proportion as suffrage has become personal — in proportion, that is, as the modern democratic idea has been realized — woman has lost her voice in public affairs. She has no direct political vote anywhere in the world except in Wyoming. She has an indirect political vote in the Isle of Man, in Austria and in Sweden, but only on the basis of property. Similarly the local suffrage is to-day granted to women only when the basis of representation is property or income. In England and many of her colonies, in the Germanic portions of the continent of Europe and in Russia, local suffrage rests upon this basis, and women have voice in the management of local affairs — in Germany, however, only in the rural communes. In the Latin countries and in the United States, where local suffrage has been assimilated to the general suffrage, women have almost uniformly failed to secure even the local ballot. The only important exception (besides Wyoming) is Kansas.

Women have been more successful, on the other hand, in obtaining a voice in the poor-law administration and in school elections. This is in part due, as M. Ostrogorski indicates, to the limitation of the suffrage in these cases to taxpayers. It is also due largely, in the United States at least, to the feeling that poor relief and school administration are non-political matters.

M. Ostrogorski's book is an illustration of the good results that can be obtained from prize-funds wisely administered. In memory of the Italian statesman, Count Rossi, at one period of his career professor of constitutional law in Paris, his widow bequeathed to the Paris Law Faculty a generous endowment, the income to be devoted to annual prizes, open to all competitors. The law faculty pursues the policy of assigning subjects for investigation. The subject in constitutional law for 1891 was that on which M. Ostrogorski has written, and his book received the first award of 1000 francs. It was declared to be "un livre distingué, profondément réfléchi, d'une lecture attachante"[1] — a judgment from which transatlantic readers will find no cause to dissent.

M. S.

[1] Faculté de Droit de Paris. Distribution des Prix: Concours de 1891. Rapport par M. Le Poittevin.

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L'Évolution Juridique dans les Diverses Races Humaines. Par CH. LETOURNEAU. Paris, Lecrosnier et Babé. 1891.—8vo, xxii, 540 pp.

The industrious secretary of the *Société d' Anthropologie* has published in rapid succession a series of volumes which collectively cover a wide field of study. One is a discussion of *Science and Materialism*, another is a treatise on *Biology*, and a third is on the *Physiology of the Passions*. These serve as a scientific groundwork for the well-known volume on *Sociology based on Ethnography*. This, in turn, constitutes a general introduction to more special sociological works, namely: *L'Évolution de la Morale; L'Évolution du Mariage et de la Famille; L'Évolution de la Propriété; L'Évolution Politique dans les Diverses Races Humaines*, and finally, the present volume on juridical evolution. As the reader will at once surmise, M. Letourneau's studies bear much resemblance to Mr. Spencer's sociological works. His views and conclusions are in general agreement with Mr. Spencer's, though he is independent, and in numberless points of detail arrives at different results. The essential difference, however, is one of method. Mr. Spencer uses the ethnographic inductive method largely, but he is also deductive and philosophical. M. Letourneau has not so strong a grasp of general causes as has Mr. Spencer, but on the historical and ethnographic side he is more thorough and minute. His method is strictly ethnographical and his work must stand or fall according to the care and critical judgment that he has put into it. His position should have placed at his command practically all the materials in existence, and should have made him an expert authority on their relative values; but the impression left by his pages is in these respects somewhat disappointing. There is no discussion of the validity of sources used, nor any attempt, such as one finds in McLennan and Westermarck, to weigh critically the importance of evidence. The reader must simply take it for granted that M. Letourneau has made sure of his facts. There is no sufficient reason, however, to doubt that in the main the facts are as alleged, or that the conclusions drawn from them will in most cases be verified by further research.

In studies of this kind, moreover, there is a certain safety in the mere extent of the phenomena surveyed. The present work examines the evolution of justice in savage tribes, in the barbaric monarchies of ancient times in China, Arabia, Judea and Persia, in Greece and Rome, among the Slavic and Germanic peoples and under the feudal

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system. The origin of justice and the more important stages of its development are found to be everywhere the same. The steps by which private revenge becomes social revenge should be a matter of familiar knowledge by this time, for they have been fully presented and discussed in recent years, even in semi-popular works like Judge Holmes's lectures on the *History of the Common Law;* yet M. Letourneau is able to impart a considerable degree of fresh interest to the subject by examining it in its relation to physiological reflex action. He shows that no line can be drawn where reflex action passes into conscious revenge, or between the reflex action that is merely individual and that which is essentially social. This is not only interesting; it is important, as throwing a new light on the position so vigorously maintained by Justice Stephen, in his *History of the Criminal Law of England*, that the feeling of vengeance toward criminals, so far from being wicked or a mere shameful survival of brutality that civilization ought to eradicate, is essentially moral and certainly indestructible. It must be rationalized and tempered, but must always remain the motive power of justice. The progressive rationalizing and tempering step by step with the socializing of vengeance is M. Letourneau's thesis, but in a few concluding words of speculation on the future of juridical evolution he goes quite beyond his facts and falls into the error that Justice Stephen warns us against. He complains that the courts still consider themselves charged with a mission of vengeance, and affirms that "future justice will not chastise; it will only work for social preservation and, if possible, for education." The belief is humane, but falls somewhat short of scientific precision.

FRANKLIN H. GIDDINGS.

Imperial Federation: The Problem of National Unity. By GEORGE R. PARKIN. London and New York, Macmillan & Co., 1892. — 12mo, xii, 314 pp., with map.

The subject of this book is probably the most important, although perhaps not the most pressing, political problem that confronts the world to-day If, as Bluntschli says, "only in the universal empire will the true human state be revealed," then the nearest approximation to that empire that is at all probable or possible in the immediate future, the federated union of Great Britain and her colonies, must prove a matter worthy not only to be considered but even to be desired by us all.

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While Mr. Parkin's volume must be regarded rather as a piece of special pleading than as an impartial study of "the problem of national unity," it must be said at once that he has treated his subject in a manner suitable to its greatness and dignity. He writes from abundance of information, in a liberal spirit and in a style that is distinctly pleasing. He has therefore produced what is not only a readable book, but also a valuable one apart from its special subject matter, for it contains a great deal of information about the present condition of the British colonies that will be of interest to readers who are not especially concerned about the outcome of the growing movement for imperial federation. Mr. Parkin is a Canadian, who has traveled widely in the interests of the federationist cause; he has therefore not relied entirely upon materials which any other man could gather in his study, but has given his book the permanent value that attaches to the impressions of a thoughtful and trained observer.

He discusses his subject in fourteen chapters, six of which treat of the general nature of the problem, and six of the special relations it bears to the mother country and the great colonial groups. The two remaining chapters are devoted to a criticism of the views of two pronounced opponents of the federationist scheme. There was some reason perhaps why Mr. Goldwin Smith should have a chapter to himself, headed by his own name; but there seems to be little reason for devoting a whole chapter to the views of Mr. Andrew Carnegie, and still less for entitling that chapter "An American View," even if the well-known Scotchman did employ the phrase in an article contributed by him to the *Nineteenth Century* some months ago.

I cannot enter, in a short notice like the present, into an analysis of the various chapters, or express an opinion as to the strength or weakness of the particular arguments advanced. Of the chapters devoted to the special colonies, those on Canada are naturally fullest and most interesting, although in them Mr. Parkin allows more weight to sentimental considerations than is perhaps safe. There is little that is sentimental in the chapter devoted to Australasia, but the absence of sentiment is made up by the humorousness of some of the quoted comments of Australian journalists on the subject of imperial federation. After the unnecessary discussion of the views of Mr. Carnegie the chapter on "Trade and Fiscal Policy" is least satisfactory. Mr. Parkin's expressions of opinion on the question of free trade and fair trade lack the ring of definiteness, and much

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that he has to say of the financial policy of this country will need revision in the light of recent events.

The book has been well printed, for only two typographical mistakes have been found. On page 251, bottom line, *whom* should read *who;* and on page 308, line 11, *North African* should read *South African.* A very convenient commercial and strategic chart of the British Empire has been specially designed for the volume by Mr. J. G. Bartholomew, but neither author nor publisher seems to have thought an index necessary.

W. P. TRENT.

The Dialogues of Plato. Translated into English, with Analyses and Introductions, by B. JOWETT, M.A. Five volumes. Third Edition, revised and corrected throughout. New York and London, Macmillan and Co., 1892.

The possessor of a first or second edition of a somewhat costly work is accustomed to look askance at a third edition. He has seen in his time many editions in which the alterations in the series were so slight as to make it of little consequence whether he possessed the first or the last. Such is not the case here. Jowett's Plato was first published in 1871. An American reprint was soon issued by Charles Scribner's Sons from this edition, and in 1875 came the second English edition, "revised and corrected throughout." The alterations here were numerous, and exhibited the pains which the author was willing to bestow upon his work. In the years that have elapsed this translation has become a classic of its kind. The writer who wishes to quote a passage of Plato to English readers presents the version of Jowett as a matter of course. Such general acceptance gives the translator the full right to regard his publication as one of the great works of his life, and to desire to bequeath it to posterity in a form as near perfection as his care and thought and added years can attain. Such an idea was natural to one who can now dedicate his volumes to the pupils of fifty years of his life, and with this purpose he entered upon the task of this final revision. The magnitude of the task and the love with which it was executed may be seen from the statement embodied in Volume I: "The additions and alterations which have been made, both in the introductions and in the text of this edition, affect at least a third of the work," a claim which, from repeated tests and comparisons made in passages taken at random in the different dialogues, appears justified.

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The additions are of several kinds. The preface is considerably enlarged by a more elaborate exposition of the principles upon which the author has proceeded in making his translation, and by a polemic against Dr. Henry Jackson's new theory of the "ideas" of Plato. The introductions to the several dialogues are given greater compass by a fuller discussion of the subjects suggested, as the stores of years of thought and reiterated reading are brought to bear upon them with that lucidity and comprehensiveness which have always characterized this part of his work. In addition to this general enlargement, the translator calls attention to eight new essays, two of which belong to the field especially treated by this QUARTERLY. These are "The relation of the *Republic*, *Statesman* and *Laws*" (vol. iii, ccxiv–ccxvii), which does not contain much that is new, and a "Comparison of the *Laws* of Plato with Spartan and Athenian Laws and Institutions" (vol. v, ccxiii–ccxxxvi). The latter is a valuable addition to the *Laws*, but admits of no little criticism. We may remark that in the comparison of Cretan, Spartan and Athenian laws, the statement that those of Crete are "so little known to us that . . . there is only one point, *viz.* the common meals, in which they can be compared," seems to argue an ignorance of the great inscription of the Gortynian Code, published some years ago, and furnishing many interesting points of comparison with the *Laws* (see *American Journal of Archæology*, 1885–86). Again, when among the sources of our knowledge of Athenian law "a few inscriptions" are classed, we feel that the *corpus* of Attic inscriptions is very much underrated, to say the least; and to omit Isaeus from the orators who are cited as "sources," is to give the play without Hamlet. The latter is simply oversight, but the former comes from relying too much on authorities as old as Telfy (1868). Sometimes Professor Jowett allows himself to make a statement which is not sufficiently precise. It is said for instance (p. ccxxiv), that "in all private suits he [Plato] gives two appeals, from the arbiters to the courts of the tribes, and from the courts of the tribes to the final or supreme court (xii, 956). There was nothing answering to this at Athens." Appeal from a public arbitrator at Athens was admissible at any time, but not from a dicastery.

In the previous editions of this translation the spurious *Second Alcibiades* and the *Eryxias* were omitted. They have now been supplied from the pen of Mr. Knight, who has served as Mr. Jowett's secretary, and has done notable service in many ways, especially in the enlargement of the index. Although the *Second Alcibiades* and

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the *Eryxias* have no claim to be ascribed to Plato, they probably fall within two or three generations later, and contain thoughts which have an interest for us from their modern ring. The *Second Alcibiades* deals with the difficulties about prayer which have perplexed Christian theologians, and the *Eryxias*

> may claim the distinction of being, among all Greek or Roman writings, the one which anticipates in the most striking manner the modern science of political economy and gives an abstract form to some of its principal doctrines,

as for instance that "wealth depends upon the need of it or demand for it," that "wealth is relative to circumstances," that "the arts and sciences which receive payment are likewise to be comprehended under the notion of wealth."

Finally we have to speak of two additions to the form of the work which render this edition invaluable: first, the subject-headings to the pages and the marginal analysis; second, the index. The reader of Plato knows well how easily the points of the argument may be lost or become confused amid the meandering form, the quick turns, the sudden sallies, the wit and the irony of the dialogue; how often the grapes elude the sight in the luxuriance of the foliage and the gadding of the vines. To correct this the translator has introduced the expedient already employed by him in his Thucydides and in his *Politics of Aristotle*. In the headings to the pages, substituted for the mere name of the dialogue in the earlier editions, the subjects are treated in their larger aspect, often with a pungency and wit which make them cling to one's memory like burrs. The marginal analysis enters more into details, and forms a succinct commentary upon the text, holding a close rein over it as with the hand of a master who, as he has himself said, has, more perhaps than others, had the privilege of understanding it. Here the students finds a help which he cannot easily overrate. We may say almost as much of the index. Each of the earlier editions contained an index, but they were meagre compared with this, the number of pages being extended from 61 to 175. All who have had to delve among the *realien* of an author and have not had before them the results of others' studies in the same direction, can best appreciate what this means. A novel feature for an index is the introduction of a general *résumé* of Plato's views of important subjects as a whole, sometimes extending to several columns and forming an addition to the usual index article. Among the subjects thus

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treated may be mentioned: dialectic, education, god, government, the idea, justice, the soul, the state, the cardinal virtues.

Dionysius of Halicarnassus has said that Plato did not cease to smooth the locks and adjust the tresses or vary the braids of his comely creations, even till he was eighty years of age, holding himself responsible to time and envy that test all things. As we listen to his translator while expounding the principles upon which he has worked, and test the results from passage to passage in the several editions, we feel that something of the same loving care and restless solicitude have actuated him. Words are altered, sentences re-written or broken up and re-formed, one form of expression exchanged for another with inexhaustible pains. Much of this is due to his effort after perfection of form. In his own words,

> the work should be rythmical and varied, the right admixture of words and syllables, and even of letters, should be carefully attended to; above all it should be equable in style. There must also be quantity, which is necessary in prose as also in verse: clauses, sentences, paragraphs, must be in due proportion.

Frequently, however, we see a desire to reach a closer approximation to the original, from which his earlier versions would often depart without necessity; sometimes, a desire to correct a mistake. One instance may be cited to exhibit some of his methods. The well-known passage from Hesiod (Op. 289) is quoted by Plato in the *Protagoras* in rhythmic but not full metrical form. Our translator's first version was:

> Hardly can a man become good, for the gods have placed toil in front of virtue; but when you have reached the goal, then the acquisition of virtue, however difficult, is easy.

This remains unchanged in the second edition, except that "when you have climbed the height" is substituted for "when you have reached the goal." Now it appears in quasi-metrical form, with some padding to make it go:

> On the one hand, hardly can a man become good,
> For the gods have made virtue the reward of toil;
> But on the other hand, when you have climbed the height,
> Then to retain virtue, however difficult the acquisition, is easy.

Here a mistake in the meaning of the Greek has been corrected, but we have the maladroit expression, "however difficult the acquisition." In all cases the translator has rendered the original

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"sweat" by "toil," thus following the principle which he lays down that "metaphors differ in different languages, and the translator will often be compelled to substitute one for another, or to paraphrase them." Spenser is bolder (*Faery Queen*, II, 3, 41):

> Before her gate High God did Sweat ordain,
> And wakeful Watches ever to abide:
> But easy is the way and passage plain
> To Pleasure's palace; it may soon be spied,
> And day and night her doors to all stand open wide.

The publishers have done their part in paper, type and general make-up to do honor to the translator, who "may be excused for thinking it a kind of glory to have lived so many years in the companionship of one of the greatest of human intelligences."

A. C. MERRIAM.

Les Destinées de l'Arbitrage International depuis la Sentence rendue par le Tribunal de Genève. Par E. ROUARD DE CARD. Paris, G. Pedone-Lauriel, 1892.—8vo, 264 pp.

This work forms the thirtieth volume in Pedone-Lauriel's valuable *Bibliothèque Internationale et Diplomatique*. It is its author's second publication on international arbitration. His first appeared in 1877, and is entitled: *L'Arbitrage International dans le Présent, le Passé et l'Avenir*.

The object of the work now under review is, as the title indicates, to show the progress that international arbitration has made since the Geneva Tribunal. It is most creditable to the two great English-speaking nations of the world, that that tribunal stands as a sort of high-water mark in the progress of the subject. For it was by the arbitration at Geneva that the substitution of reason for force in the adjustment of grave international disputes was most clearly presented as a practicable measure. It is true that those who are disposed to decry arbitration have rung the changes on the fact that the decision rendered by the Geneva Tribunal was unsatisfactory to England. It would be as sensible to object to the existence of judicial courts, because the party who fails in a lawsuit generally is dissatisfied with the judgment. The test of the success of an arbitration is not whether both parties are satisfied with the award, but whether they accept it and abide by it as a beneficent solution of controversy. That the United States and Great Britain have so considered the award of the Geneva Tribunal, is shown by their whole subsequent

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conduct, of which the latest illustration is the pending arbitration as to Behring Sea; that the world has so considered it, the work now before us affords abundant evidence.

The volume is divided into seven chapters, the first of which is devoted to the propagandism of the last twenty years, by peace societies, arbitration leagues and international associations, including such eminent bodies as the Institute of International Law and the Association for the Reform and Codification of the Law of Nations, the latter of which, it is proper to say, had an American origin. In other chapters collections are presented of resolutions adopted by various congresses and conferences and of motions made in the legislative assemblies of various countries, in favor of arbitration; of arbitral clauses embodied in divers conventions; and of permanent treaties of arbitration. But of most importance, as I am compelled to think, is the brief description of the recent arbitrations themselves.

In this part of the work a brief report is given of thirty-four international arbitrations since the date of the award at Geneva. These arbitrations related to the delimitation of boundaries and the possession of territories, two fruitful causes of war; to the seizure of ships, the confiscation of cargoes, injuries done to private persons, rights of navigation, the liquidation of accounts, and rights of fishery. Large as the number is, I do not find two arbitrations which fall within the period to which our author's volume belongs, and which would have brought the total up to thirty-six. One of these is the submission by Great Britain and Nicaragua to the Emperor of Austria, in 1880, of a controversy as to the rights of Nicaragua in the Mosquito territory under the Treaty of Managua. The emperor rendered a decision the full text of which may be found in a British blue-book. The other omitted case is the reference by the United States, Great Britain and Portugal to three Swiss jurists of claims against Portugal growing out of the seizure by that government of the Delagoa Bay Railway and the annulment of its charter. Though I am not aware that the text of the protocol of submission has been published, the British government has presented to Parliament the prior correspondence, which has been printed in a blue-book, and all the governments concerned have officially announced the fact of the submission.

In addition to the seven chapters already mentioned, the work contains an appendix in which is printed a collection of important documents illustrative of arbitration, its methods and results. On the whole the volume is a hopeful sign of progress in international affairs.

JOHN BASSETT MOORE.

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Justice: being Part IV of the *Principles of Ethics*. By HERBERT SPENCER. New York, D. Appleton & Co., 1892. — viii, 291 pp.

In this work Mr. Spencer fits into his general system the principles of political philosophy which he has made familiar through *Social Statics*, *The Man versus the State*, and other writings. Following in appearance the *Data of Ethics*, it consists essentially of the application of the principles therein formulated to the conditions of social life. There is little in the work that is new to Mr. Spencer's readers; but his views are here presented in their final form as part of his synthetic philosophy.

The twenty-nine chapters of the work fall into three groups, having for their respective topics the formula of justice, the rights deducible from this formula, and the nature and duties of the state. For the individual the essence of justice is found in the principle of evolution in general, that each shall receive the benefits and evils of his own nature and consequent conduct. As modified by social conditions, the formula of just liberty is this: "Every man is free to do that which he wills, provided he infringes not the equal freedom of any other man." There is nothing especially new in this conception, and Mr. Spencer freely admits that, while his method and point of view are his own, his conclusion has been anticipated by Kant.

As to "rights," Mr. Spencer insists that the term is only applicable to the particular varieties of freedom that are deducible from this formula of justice. Rejecting Bentham's use of the term, he derives law from rights, not rights from law. This matter is obviously a mere question of words. There are two distinct ideas involved: (1) privileges based on nature, reason or synthetic philosophy, without reference to any sanction bestowed by the state; and (2) privileges sanctioned by the state, without reference to any derivation from nature, reason or synthetic philosophy. The two classes are neither mutually exclusive nor wholly coincident. Mr. Spencer wishes to apply the term "rights" only to the first class; Bentham and the analytical jurists use it only of the second. The latter thinkers were the first clearly to distinguish the two classes, and it would seem reasonable that their nomenclature should have the preference by priority of usage. It is a pity that Mr. Spencer could not have devised distinct terms to designate the two ideas, instead of falling back into the confusion of the natural-law era.

Of rights, in the meaning he assigns to the term, the list which he

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gives does not differ from that which has been familiar for a century or more in Bills of Rights and such documents. "Life, liberty and property" practically includes them all. Mr. Spencer's wide ranging among the lower animals and primitive men has brought to light no rights under the law of nature that the social-contract philosophers had not already discovered with much less effort by pure speculation. That the synthetic philosophy confirms the ethical formulas of the eighteenth century is, of course, important. That its conclusions correspond with such exactness to those formulas, seems to give strength to the claim that they embody the ultimate truths of political science. But Mr. Spencer sets forth as the very basis of his thought the principle of eternal development. The philosophers of last century built on the conception of immutable reason. For them it was easy to insist that the doctrines they presented were true for all time and all circumstances. When the arch-evolutionist makes such a claim, he involves himself instantly in self-contradiction. It becomes clear that the striking correspondence between his "natural rights" and those of the earlier thinkers results not from the principles of his general philosophy, but from the conservatism which leads him, in spite of those principles, to take up against the tyranny of the state the very weapons which the men of last century employed against the tyranny of the monarch. Almost every chapter of the present work is permeated with the contradiction between evolution in general and absolute immobility in politics.

The nature of the state is not very distinctly determined in this work. Like the "free-swimming *Medusæ*," a "small larva of the Annulose type," and certain "low aquatic *Algae*," the state may have different natures under different circumstances (pp. 181-182). Human societies arise from three distinct motives: the desire for companionship; the need of combined action against enemies; and the desire for mutual aid in facilitating sustentation. Whichever of the motives is dominant in any state,

> the end to be achieved by the society in its corporate capacity, that is, by the state, is the welfare of its units; for the society having as an aggregate no sentiency, its preservation is a desideratum only as subserving individual sentiencies. [Page 186.]

The state here appears to be thought of as organized society, which is an intelligible, if not a novel, conception. But while far-reaching conclusions are drawn from the assumption that this organism has

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no aggregate sentiency, it is a little confusing to find several references later to the "aggregate will" (pages 189, 220). A psychology of the state which ascribes to it will without sentiency is of doubtful value.

On the denial of sentiency to the state depends Mr. Spencer's denial of any state life the perfection of which can be a topic of ethical doctrine. To him the personality of the state is an absurdity, though his references to the "aggregate will" seem to indicate a difficulty in avoiding entirely all influence of the conception. International relations have no place in a system of ethics. The concept "nation," indeed, is not defined, and the nearest approximation to any ethical theory as to the relations of nations is that in reference to the struggles of races.

> However desirable it may be that the superior races should conquer and replace the inferior races, and that hence during early stages aggressive wars subserve the interests of humanity; yet . . . the subserving of such interests after this manner must be classed with the subserving of life at large by the struggle for existence among inferior creatures — a species of action of which ethics takes no cognizance. [Page 189.]

It certainly simplifies very greatly the function of the political moralist if he can view with fatalistic indifference such struggles for national unity as those which this century has seen in Europe and America. While this seems in general to be Mr. Spencer's position, he reveals from time to time very positive views as to the morality of Great Britain's policy toward less civilized peoples, and in one instance stigmatizes her colonial policy as involving "political burglary." This expression may be purely figurative, but the general thought does not harmonize exactly with the attitude of ethical indifference to race conflicts.

As with the nature, so with the constitution of the state, Mr. Spencer can lay down no doctrine which is applicable under all conditions. The requirements of the militant and those of the industrial type are altogether different. Autocracy or oligarchy is necessary to the former; to the latter a form adapted more to protection than to coercion. But the common notion that for the maintenance of equal rights there should be an equality of powers among individuals, Mr. Spencer holds to be erroneous. In other words, there is no basis in ethics for the so-called "political rights," and the democratic principle of representation of individuals gives no assurance of justice.

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The duties of the state Mr. Spencer deduces by strict logic from his first principles. They may be summed up in a single phrase, the maintenance of justice, *i.e.* the securing to each individual the opportunity to attain as complete a life as he may. More than this the state cannot do without transgressing justice. His deduction here is as clear and symmetrical as Plato's development of justice and state duty in the *Republic*. Indeed, wide apart as are their conclusions, Mr. Spencer and the Greek philosopher present some striking analogies. Each works out a system of abstract justice applicable only to an ideal state. Plato's ideal is Sparta of 450 B. C., modified and generalized; Spencer's is England of 1850 A. D., modified and generalized. In one system dialectic, and in the other evolution, is the trusty *deus ex machina* which appears at every critical juncture to facilitate the movement of the play.

But Spencer is no more happy than Plato in reconciling his system with actual conditions. His criticism on what he conceives to be the dominant political philosophy of the time reveals a painful misapprehension of that philosophy. Because politicians sometimes seek to violate general liberty in behalf of special interests, he thinks that the theory of state omnipotence is all wrong. He cannot conceive that this omnipotence is available for the protection of liberty and justice as well as for attacks upon them. Half the declamation he directs against the state applies in fact only to the government. No one worthy of consideration claims omnipotence in any sense for the body of persons into whose hands has come temporarily, through methods more or less complicated, the authority to wield the power of the state. The state is distinct from the government; and if the organization of the modern state is not the most perfectly adapted to the maintenance of justice as defined by Mr. Spencer, it conforms in some measure at least to his ideal.

> With decline of militancy and rise of industrialism [he says] . . . there have gradually become possible and have gradually arisen multitudinous voluntary associations among citizens for discharging numerous kinds of functions.

There are those who believe that a state is some such voluntary association, and that the maintenance of justice — even Mr. Spencer's own justice — is dependent on the number and character of the functions assumed by this association at any given time. They assert that voluntary associations embracing less than the whole of a community are very apt to interfere with the "natural rights" of those

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individuals not included in them, and that there is greater equity, even if less economy, when certain functions which could be discharged by private organizations are discharged by the commonwealth.

WM. A. DUNNING.

Lo Stato Moderno. By PROFESSOR ATTILIO BRUNIALTI. Turin, 1891. — 140 pp.

In this work we have a concise and useful presentation, from a wholly modern standpoint, of the main principles of general political theory. The author starts with a definition of the state. Under this term he includes three attributes: first, an assembly of men, whose number is indefinite, but whose character is all-important ("La famiglia, la tribù, l'orda non bastano a costituire lo Stato"); second, a quantity of land in permanent relation with the population; third, the legal bond, the *vinculum juris*. In this definition Professor Brunialti is in accord with the soundest thought of the present day.

The body of the monograph is divided into three parts. In the first, the author describes the historical development of organized political life from its origins in Egypt and Palestine, through classical antiquity and feudal anarchy, down to the modern era. From this sketch he concludes that the epoch of the modern state begins in England in 1688, in America in 1776 and in France in 1789. After this historical synopsis the author traces, in the second part, the development of theory concerning the origin of the state. This method of treatment recognizes that the history of political philosophy is only of value to political science when studied in relation to the development of political institutions. Political philosophy and constitutional history complement and explain each other. Bodin's theories can be fully understood only in relation to the condition of France at the time of the religious wars. On the other hand, the revolution of 1789 appears clearly inevitable only when the ideas and all-pervading influence of Rousseau are grasped. While the author has fully adopted the method of considering both history and theory, he has erred in separating the two in his work. It would have been much better had he combined his first two chapters, and side by side traced chronologically the development of the state in fact and in theory. The evolution would have been clearer and much repetition would have been avoided.

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In the third part, the author discusses the modern state. At the present time two theories alone remain to explain the nature of the state, the one regarding the state as an organism independent of the individual will, the other regarding the state as based on a tacit contract. We find in the state all the essential characteristics of the individual organism — evolution, reproduction, growth and decay, though it differs from physical organisms in that it lives and acts for the good of its component elements. But at the same time the state is based on the free will of the citizens. The two theories as to its nature are combined in the conception of "lo Stato organico contrattuale." Of the modern state, conceived in this way, the chief characteristic is that it is national. With patriotic pride Professor Brunialti concludes his monograph with a description of Italy. It realizes all his ideals: it is organic, it is based on the free will of the citizens and it is national.

Professor Brunialti is in general very accurate. There are occasionally statements, however, to which exception may be taken. He causes Grotius to usurp Hobbes' place in the triad of great social contract philosophers. It is true that Grotius mentions the contract; but his discussion of the nature of the state is merely incidental and introductory to the theory of natural law. Hobbes, on the other hand, laid special stress on the contract, and it is the cardinal point of his constructive philosophy. Again, while Professor Brunialti shows familiarity with the works of our American scientists and statesmen, such as Lieber and Woolsey, Hamilton and Webster, yet he has fallen into an error common to many Europeans. Misled by our ambiguous nomenclature, he fails to perceive the real position of the commonwealth in the United States. He evidently regards the separate states not as organizations for local government, but as members of a confederation. Our commonwealths, accordingly, are discussed on the same plane with independent nations.

The most remarkable point about the book is the author's erudition, rivaling even Cossa's. He has delved into the literature of all ages and countries. Aquinas and Spencer are discussed with equal freedom. John Fiske is quoted in juxtaposition with Schaeffle. This omnivorous reading does much to render the book at once very interesting and very suggestive.

GEORGE LOUIS BEER.

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BOOK NOTES.

PROFESSOR DUNBAR, of Harvard University, deserves the thanks of all economic students for reprinting Cantillon's *Essai sur la Commerce* (Boston, Ellis, 1892). Although the importance of Cantillon has been somewhat exaggerated ever since Jevons wrote his famous article in the *Contemporary Review* in 1881, the book contains much to interest the historian of economics. The reprint is supposed to be an exact reproduction of the original. While the resemblance of type is fairly good, the similarity in the general appearance of the book is not so marked, owing chiefly to the fact that in the original the page is both shorter and narrower. Fidelity to the original, moreover, would have demanded the omission of the inserted sentence on the title page, "*en realité composé par de Cantillon.*" This is obviously the work of some owner of the particular copy from which the reprint was made, and it does not occur in any of the other copies which we have seen.

Dr. Irving Fisher republishes from the Transactions of the Connecticut Academy, Vol. IX, *Mathematical Investigations in the Theory of Value and Prices.* The book presupposes on the part of the reader considerable knowledge of mathematics and acquaintance with the theories of the mathematical economists such as Jevons and Walras. Dr. Fisher's chief claim to originality is in substituting mechanical for graphical illustrations. The remarks on the utility of mathematical method in economics are excellent. The author thinks that mathematical treatment will develop a higher economics, which will be the chosen field for a few investigators and will bear the same relation to ordinary economics that mathematical physics does to ordinary physics. A bibliography of mathematico-economic writings (extended from Jevons) completes the volume.

There is nothing new in the opinion, supported by Adolphe Houdard in his *Premiers Principes de l'Économique*, (Guillaumin et Cie) that political economy, as it has been presented for more than a century in the standard writings, might be resolved into an abstract science of economics and a concrete science of economic sociology

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or social economy, but he has rendered a good service by pointing out clearly the advantages that each science has to gain by the suggested separation and specialization. M. Houdard's own volume is concerned strictly with the abstract science of wealth. It is elementary, "orthodox," and admirably clear in its definitions and explanations.

In countries like England and the United States, where economic competition is in great part between equals, the usury doctrine has well nigh received its death blow through the theories of modern industry. But in some of the continental countries, where inequalities are far more marked, the reaction against *laissez faire* in loans has made itself felt. The latest example of this retrograde movement is seen in *Der Wucher und seine Gesetzgebung*, by Hermann Blodig (Vienna, Hölder, 1892). Dr. Blodig's concise history of the usury doctrine adds nothing to our store of information. But when he discusses the reasons and provisions of the modern usury laws in Austria, Germany, Hungary and Switzerland, he is breaking comparatively new ground. Almost all his reasoning refers to the peasants, and he upholds the necessity of some kind of usury laws in cases where undue advantage is taken of dire distress and where there is an obvious inequality between the service and the counter-service. We must be careful not to apply the reasoning of Wall Street to the peasant communities of Eastern Europe.

In *West Barbary, or Notes on the System of Work and Wages in the Cornish Mines* (London, Frowde, 1891), Mr. L. L. Price describes a curious survival of an earlier industrial system. In the tin and lead mines of Cornwall the remuneration of the laborers takes the form of "tutwork" or "tribute." "Tutwork" is an arrangement whereby a body of laborers bid for a certain amount of work at Dutch auction. The men are credited with the contract price of the bargain, they are charged for materials and cost of hauling the rubbish to the surface, and the remainder is divided among them. "Tribute" is a system of percentage of the price realized from the ore. Mr. Price describes the origin, the advantages and the drawbacks of this system, which forms a distinct chapter in the history of wages. He shows the gradual change in the newer form of "tutwork" and is inclined to the belief that the system will be only slowly modified. The monograph is carefully worked out and deserves a wide notice.

Professor Otto Warschauer, of Darmstadt, has begun what promises to be a comprehensive history of socialism under the title

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Geschichte des Socialismus und Neueren Communismus (Leipzig, Fock, 1892), and has just published the first of ten or twelve instalments of the work. This first part is devoted entirely to Saint-Simon and his movement. The monograph is written in a rather popular style; but it is difficult to find anything either in the exposition or in the criticism which can really be called a new contribution to the subject. When the author reaches some of the later and less well-known writers this objection will no doubt be removed. The monograph is eminently clear and readable.

Not the least valuable of the recent issues of the Social Science Series is the republication, in a double number, of Lloyd Jones' *Life, Times and Labors of Robert Owen* (London, Swan Sonnenschein), edited and revised by the author's son. It contains, taking it all in all, the fullest and best account of Owen's eventful career yet published. The especial competence of Mr. Lloyd Jones for such a task is evident from his long and close connection with the co-operative movement in England, which in its essential features was virtually the development of Owen's fundamental idea. An attractive feature of this edition is a fac-simile reprint of one of the famous labor exchange notes, recalling a curious experiment which, like that of Proudhon in France, soon came to a disastrous end.

Dr. E. R. L. Gould, of Johns Hopkins University, in *The Social Condition of Labor* (Studies in Historical and Political Science, 1893) analyzes the recent investigation of the department of labor on the cost of production of iron and steel in Europe and the United States. Dr. Gould was at the head of the European portion of the work and speaks, therefore, from personal experience and extensive knowledge. His conclusions are important. The American laborer receives higher wages than the European, lives in a better house, gets better food for less money, spends more on books and newspapers, and economizes less. The foreign-born laborer is better off in this country than at home, and in some cases is better off than the native-born American. At the same time the cost of labor is not appreciably greater here than abroad. This prosperity is due to the intelligence and energy of the laborer. "We should give the principal credit of the higher wages in America, neither to the manufacturer, nor the tariff, nor any other agency, but to the workingman himself, who will not labor for less than will enable him to live on a high social plane."

The two latest numbers of the studies in political science edited by Professor Elster of Breslau and selected from the doctor disserta-

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tions of German universities are *Die Finanzverwaltung der Grafschaft Luxemburg im Beginne des 14 Jahrhunderts*, by Martin Mohr, and *Die Nationalgüterveräusserung während der Französischen Revolution*, by Professor Boris Minzes (Jena, Fischer, 1892). Mohr's monograph gives a good picture of early mediæval fiscal administration. The period under review marks the evolution of the manorial economy into the wider territorial or provincial relations. We therefore find, as might be expected, a mixture of revenues from the incidents of feudal tenure together with the beginnings of indirect taxation. Students will also find a good example of the mediæval confusion in the monetary system and the standards of weights and measures. The monograph embodies a painstaking collection of a particular set of local facts, which will serve to illustrate the general theory of fiscal evolution. Professor Minzes' monograph deals with a far more comprehensive topic. In an introductory chapter he gives a summary of the conflicting theories and statements on his subject, and follows this with a statistical investigation based on documents in a number of local archives. Minzes shows that at the outbreak of the revolution the third estate already possessed a large part of the land, or were in a fair way to obtain it; but that the peasants were practically ruined and in the hands of the feudal lords or the growing class of capitalist farmers. Now suddenly about two-thirds of France was confiscated and the land thrown on the market. Although Minzes is unable to ascertain the exact quantity of land sold, or the exact proceeds of the sale, he is able to show from the archives of one or two departments that the purchasers were in large measure non-agriculturists, like bankers, merchants, officials, *etc.*, and that while the significance of the break with feudal conditions cannot be overestimated, the benefit to the husbandmen through this particular measure has been greatly exaggerated. The real importance of the confiscation and sale of the feudal and ecclesiastical property was indirect rather than direct.

An important work has been begun by M. Charles Gomel in his *Causes Financières de la Révolution Française* (Paris, Guillaumin, 1892). The present volume treats of the ministries of Turgot and Necker. M. Gomel makes good use of the pamphlet material and the speeches in the provincial parliaments, and elaborates a very full and interesting, although necessarily not an engaging, picture of the financial condition of France before the advent of Turgot. The efforts and the failures of Turgot, the influence of the Physio-

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crats and the minor reforms of Necker which resulted in his first disgrace are successively brought before us. Future volumes are to deal with the comptroller-general, Necker's second ministry and the work of the Constituent Assembly.

An interesting and little-known chapter of economic history has been opened by Dr. J. T. Kussaka in his monograph on *Das Japanische Geldwesen* (Berlin, Prager). The author contends that the decimal monetary system was introduced in Japan in A.D. 767, centuries before its adoption in Europe. In the introduction of metallic money, in the contest between the feudal and the central prerogatives of coinage and in the debasement of the money at various times, Japanese history, in its main outlines, presents features quite familiar to Europeans. Paper money seems to have been introduced from China in 1696. It took the form of legal-tender certificates called *hansatsu*, redeemable sometimes in coin, but frequently in produce, especially rice and other commodities, and in some cases in umbrellas. The paper naturally depreciated until it became well-nigh worthless, and was frequently denuded of its legal-tender qualities by the powerful *daimios*. The second part of Dr. Kussaka's monograph deals with the recent reform of the monetary situation. The author believes that Japan must retain for the present the silver standard, and he approves of the recent change in the national bank system, which until 1883 was modeled on the American plan, but which has lately been endowed with the characteristic features of the English system.

The second edition of Maurice Block's *L'Europe Politique et Sociale* (Hachette et Cie) is an entirely new work. Statistical tables are brought down to the latest date for which the material has been available. As it stands now the work is a scientific, comprehensive and well arranged descriptive sociology of Europe. The first part is an account of the present political organization of Europe, including governmental arrangements, territory and population, finance, army and navy. The second part describes the economic, and the third the social organization. In the latter are included the statistics of relative incomes of the social classes, the moral and educational statistics, and a brief account of various reform movements and agitations.

The third edition of Dr. Charles Letourneau's *La Sociologie d'après l'Ethnographie* (C. Reinwald et Cie) has been revised and corrected in minor details, to bring it into line with late ethnographical results. The book is almost wholly descriptive in its method,

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and is already well known as the most convenient manual that we have of the social life of tribally organized communities.

The *Report of the House Committee on Immigration and Naturalization* (Washington, 1892) is mainly an investigation of the expenditures made towards fitting up Ellis Island as a receiving place for immigrants. On the general question the committee regards the present inspection of immigrants as inadequate. Out of 476,658 immigrants arriving in the United States from April 1, 1891, to January 1, 1892, 1003 were rejected as paupers, or liable to become a public charge, and 713 under the contract-labor law. 2401 were admitted on bond. The committee denies that there is any lawful authority for the last course of action. The committee recommends an inspection abroad, holding the steamship companies responsible, and an inspection of the immigration overland. The most amusing bit of testimony is that of Mr. Louis Schade (page 667), who, after a lapse of thirty-five years, re-appears with his theory of a natural increase of 1.38 per cent per annum of the population of the United States. Applying this to the white population of 1790 (3,231,000) he reaches the figure for 1890 of 12,726,033 as the descendants of the original colonists. Adding eight million negroes and five million as margin, Mr. Schade concludes that 25,000,000 represents the descendants of the original inhabitants (white and colored) and 40,000,000 represents the immigrants since 1790 and their descendants. To the question whence came these 40,000,000, our statistics of immigration accounting for only twelve to fifteen million arrivals, Mr. Schade had no answer. Dr. Jarvis long ago pointed out (*Atlantic Monthly*, 1872) that in order to provide Schade's foreign population at successive censuses, every female immigrant between the ages of twenty and forty must have borne during the first decade eighteen children each year; from 1800 to 1810, ten children each year; 1810-20, one child every sixteen and one-half months, *etc.*

Dr. Albert Leffingwell has presented in a popular way in the little volume entitled *Illegitimacy and the Influence of Seasons upon Conduct* (Sonnenschein) the ordinary statistics of illegitimate births in England, Scotland and Ireland and of the prevalence of suicide, insanity, crimes against the person and births, in the spring and summer months. He advances no new theory in regard to the first phenomenon, unless it be what he calls heredity, *viz.* that those portions of England and Scotland conquered by the Danes show a heavier illegitimacy than those settled by the Saxons. But, as he

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says, if this influence has continued to the present day, it shows "that the admixture of race, upon which we lay so much stress, may indeed have been far less than we have supposed." But a few pages further on he makes the bold prophecy that the African in the United States will before half a dozen centuries have completely merged his race in the three hundred millions of the North American continent. Dr. Leffingwell, in quoting a statement of Sir G. Graham, in 1845, in which the United States, in respect to statistics of health and life, are placed on the same footing with Asia and Africa, observes that the criticism "is at present not quite fair; for as regards Japan there are better vital statistics obtainable to-day than for the United States of America, where the only record of vital statistics for the entire country is made but once in ten years." These are "bitter words but true."

The Italian bureau of statistics has just issued the *Cause di Morte* for 1890 and 1891, with an introduction containing summaries of general demographical interest. The death rate in 1891 was 26.21 per 1000 inhabitants. Conspicuous among the diseases were diarrhœal diseases (with death rate of 3.5 per 1000 inhabitants), pneumonia (2.6 per 1000), bronchitis (2.5 per 1000), pulmonary tuberculosis (1.0 per 1000), and congestion of the brain (1.0 per 1000). Statistics of deaths from disease depend so much upon classification and correct medical diagnosis, as well as upon local and social influences, that international comparison is not often possible. More interesting are the deaths from accident and suicide. The industrial development of Italy is seen in the great increase in the former — from an annual average of 157 per one million inhabitants in 1865-77 to 340 in 1891. Suicides have also increased from 32 per million inhabitants in 1865-77 to 56.3 in 1891. The analysis of suicides shows the usual facts: 80 per cent were males; the largest number between 20 and 40 years of age; the maximum number in June; the favorite method, drowning among women and firearms among men; most frequent among the military. A curious collection of statistics of duelling (from private sources) closes the report.

Readers who are wholly unacquainted with the theories of primitive property that are associated with the names of Haxthausen, Maurer, Maine, Morgan, Laveleye and Seebohm will find in *The Evolution of Property*, by Paul Lafargue (Swan Sonnenschein & Co.) a pleasantly written presentation of some of their results as interpreted by a mind of socialistic leanings. A final chapter on *bourgeoise*

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(modern) property follows closely the historical chapters of Marx's *Capital.* The volume offers nothing new to the scholar and is too one-sided and radical to be a satisfactory summary for the general reader.

Mr. Walter B. Scaife, in his *Geographical History of America* (Johns Hopkins Studies in Historical and Political Science), gives a condensed *résumé* of existing knowledge concerning the exploration of the eastern and western coasts of the American continents. He also reviews the history of the grants and controversies which have resulted in the establishment of the boundaries of the United States, and of the commonwealths which exist as successors of the original colonies. A chapter, moreover, is devoted to the geographical work carried on by our national government. The most striking and original part of the book is a supplement in which Dr. Scaife makes a careful argument to show that the river called the *Espiritu Santo* by the early explorers and geographers was not the Mississippi, as has been generally supposed, but the Mobile. The author has undoubtedly shown that in many cases, perhaps the majority, the early geographers applied the name in question to rivers other than the Mississippi. But so confused was their knowledge of the region that it would seem impossible to affirm that when they used the name they never had the Mississippi in mind. Several of the older maps have been reproduced as an appendix and add value to the volume.

In the second number of Seminary Papers of the University of Nebraska (Putnam's), Miss Mary Tremain presents an historical sketch of *Slavery in the District of Columbia.* The monograph contains a clear, full and impartial account of the general relation of Congress to the District, the main features of the slavery laws that prevailed there, and the struggle which led to their abolition. It is a good and useful piece of work.

Mr. W. J. Fitzpatrick is a most indefatigable explorer of uncanny nooks and corners in Irish history. The revolutionary episodes at the end of the eighteenth and the early part of the nineteenth century afford admirable opportunities for the exercise of his talent. In *Secret Service Under Pitt* (Longmans, 1892) he shows that he has most successfully availed himself of these opportunities. No Irish conspiracy against English rule has been without its "informer." In some most important instances the identity of the traitor has never been revealed. Mr. Fitzpatrick has taken several cases, notably that of the government's most valuable ally in 1798 and that

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of the betrayer of Lord Edward Fitzgerald, and with inexhaustible patience and ingenuity has fixed not only the guilt but the price it brought. His book has the fascination of a romance, while at the same time it throws a ghastly light on the political life of the period in Ireland.

Col. G. B. Malleson's *Refounding of the German Empire* (Scribner's, 1893) contains a superficial account of the political and diplomatic incidents of German history between 1848 and 1871 and a detailed narrative of the wars of the time. It is essentially a military history. The great campaigns of Königgrätz, Metz and Sedan are described with much minuteness, though the author's sense of proportion is in some cases defective. He devotes, for example, thirteen pages to Spicheren and only three to Vionville and Mars-la-Tour. It is hard for a reader to follow the tactics of a single battlefield, even down to battalion movements, with maps designed to illustrate only the grand strategy of a whole campaign; yet this is what Col. Malleson's readers are in several cases obliged to do.

Government, by J. N. McArthur (Longmans, 1892), presents a scheme of constitutional and administrative organization which, in the author's opinion, would remedy all the defects of existing governmental systems. He finds the first principles of government best exemplified in "village literary societies, cricket clubs" and such bodies, and his system is based upon what he learns from these. There is something Arcadian in the egotism of the introductory chapter. "Many," says the author, "perhaps most people, consider that great ends can be accomplished only by highly complicated means. I think the reverse. My scheme of government here proposed is simple." And though, as he admits, "I may offend the Radical politician" and "I may possibly startle the Conservative," he proceeds without flinching to unfold his plan. The plan itself is by no means so absurd as the introduction would seem to indicate, and it includes some very suggestive propositions, among which may be noted the immediate responsibility of the professional hierarchic head of any department of the administrative service to the representative body, without the intermediary of an "amateur cabinet member." Mr. McArthur's argument is admirably condensed, but a little judicious editing would have made great improvement in his style.

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